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THE LAW OF VALUATION
IN SCOTLAND

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THE LAW OF VALUATION IN SCOTLAND

BY

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EDINBURGH AND GLASGOW
WILLIAM HODGE & COMPANY, LIMITED
1930

11 - 680953

PRINTED BY
WILLIAM HODGE AND COMPANY, LIMITED
GLASGOW AND EDINBURGH

PREFACE.

Since 1912 no book has been published dealing with the subject of Valuation Law in Scotland. During the intervening years three statutes have been passed which have considerably affected the law of valuation, and each year has brought a fresh crop of cases from the Appeal Court. Valuation Law has recently assumed an importance proportionate to the increase in rates, and the De-Rating Acts have brought the subject before the public eye. It therefore seems an appropriate time for a book on this subject. The present book does not pretend to deal exhaustively with the decisions, and it has not been considered desirable to quote at any length from decided cases, as the Law Reports are readily available to any reader.

I must express my indebtedness and thanks to Mr. T. M. Cooper, K.C., without whose help this book would not have been possible. He has been a constant source of valuable advice throughout its writing. Mr. Clyde, Advocate, originally planned to write on the subject of valuation law, but owing to circumstances he was unable to complete his work. He has been kind enough to hand over all his materials, which have been invaluable to me in the preparation of this book.

I must also express my thanks to the Burgh Assessors of Edinburgh and Glasgow and their staffs, who have given me great assistance. Mr. G. L. Sturrock, S.S.C., and Mr. David Robertson, S.S.C., depute town-clerk, Edinburgh, have been good enough to read the proofs, and I am indebted to them for a number of useful suggestions. Mr. John A. King, H.M. Assessor of Railways and Canals in Scotland, has revised the chapter on Railways and Canals and the part dealing with the Revenue Principle. He has been most helpful, and my thanks are due to him. I am also indebted to Mr. W. R. Milligan, Advocate, who has assisted me in the preparation of the Index.

The law is stated as at 9th July, 1930.

C. W. Graham Guest.

Edinburgh, *July, 1930.*

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Stirling & Sons v. Holm (1873), 14.
Stirlingshire Assessor
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  :—Falkirk Parish Council v. (1928), 24, 105.
  :—Ross & Co. v. (1928), 121.
  v. Stein & Co. (1900), 30, 31, 43.
  :—Stein & Co., John G. v. (1915), 29, 31.
Stirlingshire County Council v. Glasgow Corporation (1925), 6.
Stonehaven Harbour Trustees (1865), 27.
Stranraer Assessor:—Stranraer Gas Co. v. (1924), 89, 100.
Stranraer Gas Co. v. Stranraer Assessor (1924), 89, 100.
Strathearn v. Fogal (1922), 3.
Stuart:—Argyllshire Assessor v. (1888), 42, 75, 103.
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  :—Anderson v. (1847), 113.
Union Cold Storage Co. v. Inland Revenue (1930), 133.
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United Collieries v. Lanarkshire Assessor (1912), 18, 39, 91.
Urban Electric Supply Co.:—Hawick Parish Council v. (1906), 40, 100.
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Wallace, &c.—North British Railway Co. v. (1884), 113.
Wallace, Scott & Co. v. Glasgow Assessor (1916), 82, 84, 98.
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  v. Midlothian Assessor (1914), 101.
Watson:—Glasgow Assessor v. (1920), 15, 28, 33, 34.
Watson, Gow & Co. v. Glasgow Assessor (1910), 9.
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Weir, Limited v. Clackmannan Assessor (1901), 21.
Wemyss Coal Co.:—Fife Assessor v. (1903), 30.
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White Horse Distillers Co. v. Inland Revenue (1930), 131, 136.
Wigtownshire Assessor
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  :—Greenock Assessor v. (1919), 16.
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ADDENDA.

Revenue Principle.

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A novel question has been raised concerning the propriety of including within the gross revenue of a company, for the purpose of computing annual value on the " Revenue Principle," money received by way of Government grant to enable the company to carry out the construction of works for the relief of unemployment. Such grants usually take the form of an annual payment for a period of years equivalent to an agreed proportion of the interest and sinking fund charges. No case has yet come up for decision; but Mr. Justice Rowlatt, sitting in an income tax case, has held that such a Government grant to a dock company is " an annual profit or gain," and liable to income tax (*Seaham Harbour Dock Co.* v. *Crook*, 1930 T.L.R. 396.). The considerations by reference to which liability to income tax is determined are not identical with those which regulate the ascertainment of the " revenue of the undertaking " under the revenue principle of valuation; and it does not necessarily follow from the *Seaham* decision that the grant must be brought into computation for rating purposes, at least until the new works constructed with the aid of the grant have been completed and incorporated in the undertaking.

Rating and Valuation (Apportionment) Act, 1928.

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Since this book went to press, the King's Bench Divisional Court in England have issued certain decisions upon an interpretation of the Rating and Valuation (Apportionment) Act, 1928. They have not yet concluded their consideration of the cases, several of which have been taken to the Court of Appeal. It has accordingly not been deemed advisable to include these cases in the text of the book, as there is a possibility that they may be appealed to the House of Lords and it is not yet known how far, if at all, these decisions will be authoritative in Scotland. In the majority of cases the views of the English judges have coincided with those of the Scottish Court, but in some the English Courts have reached a different conclusion.

INDUSTRIAL LANDS AND HERITAGES.

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The following premises have been held not to be industrial hereditaments:—A chain-cable testing station (*Dudley Revenue Officer* v. *Lloyds British Testing Co.*, (1930) 46 T.L.R. 428), cold storage premises (*Manchester Revenue Officer* v. *Manchester Assessment Committee*, (1930) 46 T.L.R. 428); beer bottling stores (*Camberwell Revenue Officer* v. *Camberwell Assessment Committee*, (1930) 46 T.L.R. 428), the branch shop of a firm of dyers and cleaners, from which articles were sent to the main factory (*Ideal Cleaners and Dyers, Ltd.* v. *West Middlesex Assessment Committee*, (1930) 46 T.L.R. 371), premises where the occupiers made spare parts for their own fleet of omnibuses (*Stoke-on-Trent Revenue Officer* v. *Stoke-on-Trent Assessment Committee*, (1930) 46 T.L.R. 434), premises where wool was sorted, separated and blended (*Bradford Revenue Officer* v. *Bradford Assessment Committee*, (1930) 46 T.L.R. 506), a warehouse containing elaborate plant for cleaning seeds (*Ipswich Revenue Officer* v. *Eastern Counties Farmers' Co-operative Association, Limited*, (1930) 46 T.L.R. 512), the workshop of a bespoke tailor (*Staincross Revenue Officer* v. *Staincross Assessment Committee*, (1930) 46 T.L.R. 516), a warehouse used for the purpose of grinding, blending and roasting coffee (*Stepney Revenue Officer* v. *R. Twining & Co., Ltd.*, (1930) 46 T.L.R. 530), and premises where rags were ripped, cut, classified and sorted (*Dewsbury Revenue Officer* v. *Dewsbury Assessment Committee*, (1930) 46 T.L.R. 519). The English Court held that a baker's and confectioner's shop, with living rooms above and a bakehouse in the rear, was not an industrial hereditament (*Wimbledon Revenue*

Officer v. *Surrey Assessment Committee*, (1930) 46 T.L.R. 437), thus differing from the Scottish decision in *Inland Revenue* v. *Assessor for Aberdeenshire* and *Malcolm*, 1930 S.C. 437.

The English Court followed the Scots decision of *Outram & Co.*, 1930 S.C. 351, and held that, while newspaper offices are industrial hereditaments, there must be apportionment between the industrial part (*e.g.*, that used for printing, composing, &c.) and the non-industrial part (*e.g.*, the editorial and advertising departments) (*Cardiff Revenue Officer* v. *Cardiff Assessment Committee*, (1930) 46 T.L.R. 499). The sorting and breaking up of scrap metal was held to be an industrial process (*Langbraugh Revenue Officer* v. *Langbraugh Assessment Committee*, (1930) 46 T.L.R. 508), thus following the Scottish decision. But in the case of an oil-blending factory the Court held, contrary to the decision in the Scots case (*Sharp & Co.*, 1930 S.C. 463) that the premises were industrial hereditaments (*Poplar Revenue Officer* v. *Poplar Assessment Committee*, (1930) 46 T.L.R. 428). A garage containing a motor repair shop was also held to be industrial (*Barnsley Revenue Officer* v. *Eyre Bros., Ltd.*, (1930) 46 T.L.R. 522). Buildings separated by 235 yards cannot be said to be contiguous so as to constitute a single factory (*Southwark Revenue Officer* v. *R. Hoe & Co., Ltd.*, (1930) 46 T.L.R. 528).

AGRICULTURAL LANDS AND HERITAGES.

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Sporting rights, when severed from the occupation of land, do not form part of the agricultural land over which they are exercised; they are therefore not to be included in arriving at the value of the agricultural land for insertion in the "special list." They should be left as a separate entry in the valuation list (*Hastings* v. *Walsingham Rural District Revenue Officer*, (1930) 46 T.L.R. 425).

CHAPTER I.

PRACTICE.

1. The Assessor.

His Appointment.—The assessor is appointed by the County Council in each county and the Magistrates in each burgh for the purpose of making up the valuation roll. He may be appointed for the whole county or burgh or for some particular portion of it prescribed by the County Council or the Magistrates. He must on being appointed declare that he will faithfully and honestly perform the duties of his office, and he is removeable at pleasure.[1] He is not concerned with the valuation of railways and canals, for which a separate assessor is appointed.[2] He may not be sheriff-clerk, county clerk, or factor for heritable property[3] or land agent in the district for which he is assessor.[4] He may not be a county councillor or partner in business of a county councillor.[5] The County Council or burgh may obtain the assistance of the officer of Inland Revenue who assesses for income tax purposes within the district, and he is obliged, on being required, to appear before them and to produce all assessments and documents dealing with the assessment or value of any property in his district, and to answer on oath all questions relating thereto.[6] The duties of the officers of Inland Revenue and of the assessors as regards the valuation roll were found to be analogous, and accordingly an officer of Inland Revenue may be appointed an assessor, and, if so appointed, he is to be in the same position as an assessor under the Act.[7] The consent of the Treasury must be obtained to the appointment of an Inland Revenue officer, and the amount of the salary, wages, or allowances awarded to him, and any regulations made by the County Council with respect to his duties, must be approved by the Treasury.[8] If the officers of Inland Revenue are not appointed assessors, then valuations made by the local assessors are not conclusive in regard to any assessment relating to income tax, &c.[9]

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[1] Sec. 3 of the 1854 Act.

[2] Secs. 20-29 of the 1854 Act; Chapter VII.

[3] See *Fife County Council* v. *Assessor for Earlsferry*, 1926, 36 P.L.M. 202, per Lord Morison at p. 211.

[4] Registration Amendment (Scotland) Act, 1885, sec. 11.

[5] Local Government (Scotland) Act, 1889, sec. 83 (5).

[6] Sec. 2 of the 1854 Act.

[7] Sec. 1 of the 1857 Act.

His Rights and Duties.—The duty of the assessor is annually to ascertain and assess the yearly rent or value of the lands and heritages within his county or burgh,[1] and annually to make up a valuation roll showing the annual value for the time being of these subjects. The roll must be made up on or before 15th August in every year,[2] and the assessor must on or before 25th August, and not earlier than 15th July, in each year transmit to each person included in his valuation, whether as proprietor, tenant, or occupier, a copy of every entry in the roll affecting him, along with a notice that if he considers himself aggrieved by the valuation he may either appeal to the County Council or the Magistrates, as the case may be, at the Courts held between 10th and 30th September,[3] or obtain redress without the necessity of an appeal by satisfying the assessor on or before 8th September, that he has good ground of complaint.[4] The copy of the entry and notice may be served either personally or by post. The assessor, however, need not serve a notice if he is merely repeating an entry of the previous year.[4] The assessor has wide powers for obtaining information to enable him to make up the roll. He may call for a written statement of the annual value and of all other particulars required by the Act from every proprietor, tenant, or occupier, and heavy penalties are provided for failure to furnish a written statement and for furnishing a false statement with knowledge of its falseness.[5] The penalty may be recovered by summary proceeding upon complaint made to the Sheriff.[6] This does not, however, exclude an indictment at common law against an owner for fraudulently omitting to include in the return to the assessor sums received from the tenants as grassum.[7] The penalty must further be applied for the purposes of the Act within the district in which the offence was committed.[8] Failure to supply the assessor with the information which he demands may prejudice a party if he appeals;[9] but the only statement which a proprietor is bound to make is a statement of the particulars which the assessor requires to put into the valuation roll. The proprietor, while bound to state the yearly rent or value, is not bound to state "the gross amount to be paid by the tenant yearly."[10] The assessor is now entitled, on giving twenty-four hours' previous notice in writing to the occupier, to enter, survey, and value the lands and heritages, and any person obstructing him is liable to a penalty not exceeding £20.[1]

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[8] Local Government (Scotland) Act, 1889, sec. 83 (3), (4), and (6).

[9] Sec. 3 of the 1857 Act.

[1] Sec. 3 of the 1854 Act.

[2] Sec. 4 of the 1854 Act.

[3] See secs. 8, 9, and 10 of the 1854 Act.

[4] Sec. 5 of the 1854 Act.

[5] Sec. 7 of the 1854 Act; see *Robertson* v. *Hamilton*, 1878, 4 Coup. 154; 16 S.L.R. 181. See also Glasgow Corporation Order Confirmation Act, 1924, sec. 31; Aberdeen Corporation Order Confirmation Act, 1925, sec. 31; and Lanarkshire County Council Order Confirmation Act, 1925, sec. 46, which extend these provisions in the respective districts to any factor, agent, or person acting for or on behalf of a proprietor, tenant, or occupier. These Acts are printed in the Appendix.

[6] Sec. 37 of the 1854 Act.

The roll is retained by the assessor until 8th September, when he is required to transmit the valuation roll to the county clerk of the county or the town-clerk of the burgh, as the case may be.[2] He must, however, attend every Court of Appeal held by the County Council or the Magistrates, and answer upon oath all questions put with reference to the appeals.[3]

It should be noted that in Glasgow, Aberdeen, and Lanarkshire a separate code of dates applies to the assessors' duties in these districts.[4]

2. The Valuation Roll.

Preparation.—The particulars required by the 1854 Act which the valuation roll must show were:—(1) The yearly rent or value for the time of the whole lands and heritages, (2) the nature of the lands and heritages, and (3) the names and designations of the proprietors and, where there were tenants or occupiers, of the tenants and occupiers (sec. 1). The original form for the valuation roll was prescribed in the Schedule to the Act. But alterations have been made by subsequent statutes on the form of the roll and in the particulars required. The particulars now required are set forth in the Valuation Roll (Scotland) Order, 5th July, 1929,[5] and a form is provided in the Schedule to that Order. These are—(1) The yearly rent or value or gross annual value of the whole lands and heritages; (2) the nature of the lands and heritages; (3) the names and designations of the proprietors; (4) of the tenants; (5) of the occupiers;[6] (6) the names of all inhabitant occupiers not rated, for which a separate column is provided in the roll, and also the annual value of each house or part of a house occupied as a separate dwelling[7] (this is now optional);[8] (7) the deduction under the Rating (Scotland) Act, 1926, from the gross annual value for obtaining the net annual value (this is also optional);[1] (8) the net annual value under the Rating (Scotland) Act, 1926,[2] and the rateable value under the Rating and Valuation (Apportionment) Act, 1928;[3] (9) the valuation roll must further show by distinguishing marks what lands and heritages are agricultural, industrial, or freight transport lands and heritages.[4] Power is given to the assessor under the 1928 Act, where industrial lands and heritages are occupied and used partly for industrial purposes and partly for other purposes, to apportion the net annual value according to the occupation and use of the respective purposes. Any such apportionment must be shown in the valuation roll.[5] The assessor is only allowed to enter the particulars authorised by statute.[6] The assessor in making up the roll must distinguish lands and heritages situated within every police and special district mentioned in sec. 45 (1) of the Local Government (Scotland) Act, 1894, and as from 16th May, 1929, the assessor of a county shall distinguish lands and heritages situated within the boundaries of each district of a District Council.[7]

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[7] *Strathern* v. *Fogal*, 1922 J.C. 73; 59 S.L.R. 504; 1922 S.L.T. 543.

[8] Sec. 38 of the 1854 Act.

[9] *Forrest's Factor* v. *Assessor for Lanarkshire*, 1920 S.C. 496; (No. 364); 57 S.L.R. 563; 1920, 2 S.L.T. 194; *Scouller* v. *Assessor for Glasgow*, 1912 S.C. 757; (No. 297); 49 S.L.R. 152; 1911, 2 S.L.T. 491.

[10] *Bruce* v. *Walker*, 1911 S.C. (J.) 7; 6 Adam, 338; 48 S.L.R. 65; 1910, 2 S.L.T. 317.

[1] Rating and Valuation (Apportionment) Act, 1928, sec. 9 (14).

[2] Sec. 11 of the 1854 Act.

[3] Sec. 10 of the 1854 Act.

[4] Glasgow Corporation Order Confirmation Act, 1924, secs. 28 and 29; Aberdeen Corporation Order Confirmation Act, 1925, secs. 28 and 29; and Lanarkshire County Council Order Confirmation Act, 1925, secs. 40 and 41, printed in the Appendix.

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[5] See Appendix, p. 223.

[6] Sec. 1 of the 1854 Act.

[7] Registration Amendment (Scotland) Act, 1885, sec. 6; Representation of the People Act, 1918, Sched. 6 (8).

[8] Valuation Roll (Scotland) Order, 1929, art. 4 (2) (c).

[1] Valuation Roll (Scotland) Order, 1929, art. 4 (2) (e).

[2] Sec. 14 (1).

[3] See sec. 49 (1) of the Local Government (Scotland) Act, 1929.

[4] Rating and Valuation (Apportionment) Act, 1928, sec. 9 (5).

[5] 1928 Act, sec. 9 (6), (7), and (8).

[6] *Addie*, 1868, 11 M. 979; (No. 61).

A copy of the entry in the roll is to be transmitted to each person interested not earlier than 15th July and not later than 25th August, except where the entry is merely repeated from the preceding year. The roll must be made up on or before 15th August, and a person dissatisfied with the entry may, if he can, satisfy the assessor on or before 8th September that he has good ground of complaint.[8] Although the roll is in force from Whitsunday to Whitsunday, the assessor may recognise and give effect to changes which take place prior to 15th August.[9] After 8th September the assessor has no power to alter the roll at his own hand. The person interested may appeal to the County Council or the Magistrates, in which case his appeal will be heard at the Courts held between 10th and 30th September.[1]

The roll is retained by the assessor until 8th September, when it is transmitted to the county or town-clerk, and it thereafter remains in his office open to inspection by any person interested.[2] When all appeals have been disposed of, the roll is authenticated by the signature of the convener of the County Council, or the county clerk, or of the chief magistrate or of the town-clerk, and is then in force as the valuation roll for the year from the preceding Whitsunday to the Whitsunday following. Every parish or person interested is entitled to inspect the roll and to make copies at their own expense on payment of a moderate fee.[3]

Printing of the Roll.—The valuation roll may be printed by order of the County Council or the Magistrates for any period not exceeding ten years at any one time, and the expenses of printing are considered part of the expenses of making up the roll.[4]

Expenses of making up the Roll.—After the roll is completed the County Council or Magistrates first ascertain the amount of the expenses of the valuation and assess the amount fixed on the subjects included in the valuation, the proprietors and occupiers sharing equally.[5] Owners and occupiers of railways and canals are not liable to be assessed for these expenses.[6] Any balance is to be retained to meet the expenses in subsequent years. When the assessor is also the officer of Inland Revenue for the district, the expenses of attending the making up of the valuation roll is defrayed by the Inland Revenue,[7] and where the County Council order the roll to be printed the extra trouble caused to the assessor in preparing the roll for the press is paid for by the Inland Revenue.[8]

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[7] Local Government (Scotland) Act, 1929, sec. 49 (3).

[8] Sec. 5 of the 1854 Act.

[9] *Scottish Lands and Buildings Co.* v. *Assessor for Edinburgh,* 1884, 11 R. 568; (Nos. 45 and 46); 21 S.L.R. 403; *M'Garrity* v. *Assessor for Lanarkshire,* 1921 S.C. 652; (No. 376); 58 S.L.R. 422; 1921, 1 S.L.T. 357; *Vernon & Sons* v. *Assessor for Greenock,* 1924 S.C. 660; (No. 396); 61 S.L.R. 322; 1924 S.L.T. 280.

[1] Sec. 8 of the 1854 Act.

[2] Sec. 11 of the 1854 Act.

[3] Sec. 12 of the 1854 Act.

[4] Registration Amendment (Scotland) Act, 1885, sec. 12.

Supplementary Assessment and Supplementary Roll.—Power was given by sec. 17 of the 1854 Act, where a "supplementary assessment" for any portion of the year was made, to make up a "supplementary valuation roll" for this purpose. This supplementary assessment could only be made on proprietors and occupiers already entered in the roll, and there was thus no power under that Act to make up a "supplementary roll" in respect of premises omitted or which had come into existence since the completion of the roll.[9] The "supplementary assessment" was therefore only an additional burden on the same persons who had paid the original assessment. Provision, however, was made in the Burgh Police (Scotland) Act, 1903, sec. 60, for a "supplementary valuation roll" which is to contain all lands and heritages which may have come into existence or occupancy since the completion of the ordinary valuation roll. The County Council and Magistrates, between 1st January and 1st March, if the Town Council so resolve before 1st January, shall cause a supplementary valuation to be made of all such lands and heritages with a column containing the dates when the premises came into existence or occupancy. The statutory provisions applicable to the principal valuation roll are *mutatis mutandis* applicable to the supplementary roll, and the Town Council is entitled to impose supplementary assessments in respect of all premises in the supplementary roll.

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[5] Sec. 18 of the 1854 Act; *Glasgow Corporation* v. *Glasgow Parish Council*, 1910 S.C. 858; 47 S.L.R. 711; 1910, 2 S.L.T. 51.

[6] *Stirlingshire County Council* v. *Glasgow Corporation*, 1925 S.C. 649; 1925 S.L.T. 457.

[7] Sec. 1 of the 1857 Act.

[8] *County Council of Lanarkshire* v. *Lord Advocate*, 1892, 19 R. 617; 29 S.L.R. 497.

[9] *Glasgow Tramways Co.*, 1873, 1 P.L.M. 270, 3rd series.

In the cities of Edinburgh, Glasgow, and Aberdeen and the county of Lanarkshire special provisions apply regarding the supplementary valuation roll.[1]

Finality of the Valuation Roll.—The valuation roll, when completed, is final and conclusive as affecting all questions of value;[2] but the roll is not final as regards liability to be rated.[3] In most burghs there is an assessment roll separate from the valuation roll, and the valuation roll[4] accordingly has no direct concern with assessments. So an owner is entitled before assessment to have all permissible deductions made from the sum entered in the roll.[5] But where any public assessment is on the basis of the real rent, then the yearly rent as appearing in the valuation roll is deemed to be the real rent for the purpose of such assessments.[6] This provides for uniformity and makes the valuation roll the basis of all public assessments. As regards Imperial taxation, if the officers of Inland Revenue are appointed assessors, the valuation roll is conclusive, but not otherwise.[7]

No valuation is rendered void or affected by reason of any mistake in the names of the lands and heritages or of the proprietors or occupiers, and no valuation is challengeable by reason of any informality or want of compliance with the provisions of the Act in the proceedings for making up the valuation.[8] The Valuation Appeal Court, as will be seen, is concerned with questions of value alone;[9] but the Court of Session will grant relief in questions of assessment, and will entertain an action to rectify erroneous or double entries.[1]

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[1] Edinburgh Corporation Order, 1919, sec. 7; Glasgow Corporation Order Confirmation Act, 1924, sec. 27; Aberdeen Corporation Order Confirmation Act, 1925, sec. 27; Lanarkshire County Council Order Confirmation Act, 1925, sec. 45. See Appendix.

[2] *Magistrates of Glasgow* v. *Hall*, 1887, 14 R. 319; 24 S.L.R. 241; *Dante* v. *Assessor for Ayr*, 1922 S.C. 109; 50 S.L.R. 101; 1922 S.L.T. 74.

[3] *Assessor for Glasgow* v. *Glasgow Corporation*, 1929 S.C. 291; (No. 448); 1929 S.L.T. 212; *Distillers Co.* v. *Fife County Council*, 1925 S.C. (H.L.) 15; 1925 S.L.T. 326.

[4] Cf. Burgh Police (Scotland) Act, 1892, sec. 348; Edinburgh Municipal and Police Act, 1879, sec. 75; Glasgow Police Act, 1866, sec. 54.

[5] See Poor Law (Scotland) Act, 1845, sec. 37; cf. *Burghead Harbour Co., Ltd.* v. *George*, 1906, 8 F. 982; 43 S.L.R. 754; 14 S.L.T. 253.

[6] Sec. 33 of the 1854 Act.

[7] Sec. 3 of the 1857 Act; *Menzies* v. *Inland Revenue*, 1878, 5 R. 531; 15 S.L.R. 285.

[8] Sec. 30 of the 1854 Act.

[9] *British Linen Co.* v. *Assessor for Aberdeen*, 1906, 8 F. 508; (No. 242); 43 S.L.R. 442; 13 S.L.T. 952; *Assessor for Glasgow* v. *Glasgow Corporation*, 1929 S.C. 291; (No. 448); 1929 S.L.T. 212.

[1] *Sharp* v. *Latheron Parochial Board*, 1883, 10 R. 1163; 20 S.L.R. 771; *Abercromby* v. *Badenoch*, (O.H.) 1909, 47 S.L.R. 18; 1909, 2 S.L.T. 114; *Hope* v. *Edinburgh Corporation*, (O.H.) 1897, 5 S.L.T. 195.

But where a party assessed has neglected the statutory means of redress, it is incompetent in subsequent proceedings to contradict the valuation roll.[2] Failure to give notice under sec. 5 of the 1854 Act is not a want of compliance with the provisions for "making up" the valuation roll within the meaning of sec. 30 above referred to.[3]

3. Appeals.

(1) *To the Valuation Committee.*—There is transmitted to every person on the roll, along with a copy of the entry applying to him a notice that if he considers himself aggrieved he may appeal to the County Council or the Magistrates.[4] The Court for hearing appeals must be held annually on or before 19th, but not earlier than 10th, September. Ten days' notice of the holding of these Courts must be given, and all appeals and complaints must be lodged not later than 10th September and disposed of before 30th September.[5]

The Committee.—As regards the composition of the body who hear the appeals, the "Commissioners of Supply" originally fulfilled this function, but in 1879 a standing committee of the Commissioners was established to hear the appeals, called "the County Valuation Committee."[6] The Committee was appointed by the Commissioners at their annual meeting, and consisted of not less than 5 and not more than 20 members, with a quorum of 3. They had power to elect their own chairman, and the county clerk was clerk to the Committee.[7] By sec. 11 of the Local Government (Scotland) Act, 1889, the duties and powers of the Commissioners of Supply in regard to the Lands Valuation Acts were transferred to the County Council. It is now the "County Valuation Committee" of the County Council who hear appeals. In burghs the Magistrates originally heard appeals, but they may now appoint a Standing Committee for the hearing of appeals, to be called the "Burgh Valuation Committee."

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[2] *Maclachlan* v. *Tennant,* 1871, 2 Coup. 45; 43 J. 390; 8 S.L.R. 497; *Dante* v. *Assessor for Ayr,* 1922 S.C. 109; 59 S.L.R. 101; 1922 S.L.T. 74.

[3] *Moss' Empire* v. *Assessor for Glasgow,* 1917 S.C. (H.L.) 1; 54 S.L.R. 12; 1916, 2 S.L.T. 216.

[4] Sec. 5 of the 1854 Act.

[5] Sec. 8 of the 1854 Act; sec. 7 of the 1867 Act; *Stein* v. *Assessor for Falkirk,* 1912 S.C. 853; (No. 311); 49 S.L.R. 380; 1912, 1 S.L.T. 295.

[6] Sec. 4 of the 1879 Act.

[7] Sec. 5 of the 1879 Act.

This Committee consists of not less than 7 and not more than 15 members. The town-clerk is clerk to the Committee.[8]

Persons entitled to Appeal and Notice of Appeal.—All persons whose names have been entered in the valuation roll as proprietors, tenants, or occupiers are entitled to appeal to the Committee regarding the entry in the roll. The appellant must intimate to the assessor six days before the first meeting of the Committee his intention to appeal, and specify the amount of valuation which he alleges should be substituted for the amount stated by the assessor.[9] The Valuation Committee must not take too strict a view of the terms of this section. Even although the value to be substituted is not mentioned, if the Committee have reason to suppose that the assessor knew perfectly well the nature of the objection to be taken and the value to be substituted, they are not entitled to dismiss the appeal. The Committee must satisfy themselves that such a notice has been given as will fairly put the assessor on his guard as to the grounds of appeal.[1] Verbal intimation to the assessor of objection to premises entering the roll at all, together with an appeal against them being entered at a certain sum, is sufficient intimation of an appeal against premises being entered in the roll.[2] Where there is no intimation of the value to be substituted, and no evidence that the assessor had other knowledge of the grounds of appeal, an appeal is incompetent.[3] The notice of appeal required by sec. 9 of the 1854 Act must be intimated after notice of the entry has been transmitted to the party affected, and a notice of appeal before the roll has been made up is insufficient.[4] The notice of appeal must be given six days before the day fixed for the hearing of appeals, and an intimation which was not given six days before, although it was given more than six days before the appeal was actually heard, was held insufficient.[5] All appeals and complaints must be lodged in any event not later than 10th September.[6] Where a County Council made a regulation that an appeal must be lodged with the county clerk, a notice given to the assessor in terms of this section was considered sufficient.[7] In Glasgow, Aberdeen, and Lanarkshire a separate code applies as regards the dates for the lodging and hearing of appeals.[8]

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[8] Sec. 5 of the 1895 Act.

[9] Sec. 9 of the 1854 Act.

[1] *Symington & Sons* v. *Assessor for Coatbridge*, 1895, 22 R. 588 (No. 170); 32 S.L.R. 431.

[2] *Maitland* v. *Assessor for Midlothian*, 1888, 15 R. 592; (No. 85); 25 S.L.R. 318. See also *Ayrshire Education Authority* v. *Assessor for Irvine*, 1922 S.C. 435; (No. 379); 59 S.L.R. 288; 1922 S.L.T. 109; *Cowdenbeath Public-House Society, Ltd.* v. *Assessor for Fife*, 1929 S.C. 280; (No. 445); 1929 S.L.T. 166.

[3] *Symington & Sons* v. *Assessor for Coatbridge*, *supra*.

[4] *Assessor for Linlithgowshire* v. *Ballantine*, 1895, 22 R. 591; (No. 166); 32 S.L.R. 432; 2 S.L.T. 570.

[5] *Watson, Gow & Co.* v. *Assessor for Glasgow*, 1910 S.C. 807; (No. 268); 47 S.L.R. 374; 1910, 1 S.L.T. 189.

Complaints.—In addition to the right of appeal, any person interested may complain to the Valuation Committee that any particular set forth in any entry, other than the annual value, is erroneous.[9] The decision of the Committee on all questions other than that of value is final, without any right of appeal to the Valuation Court. Further, a right is given to any person to complain that the annual value of any lands or heritages is not the true value; inquiry is made into the complaint after six days' notice to the proprietor and occupier, and the Committee have power to alter the amount after such inquiry.[1] Any person interested, *e.g.*, a ratepayer,[2] or a parochial board,[3] may complain—even persons who are not entered in the roll as ratepayers at all.[4]

Appeal of Inland Revenue Officer.—The de-rating provisions of the Rating and Valuation (Apportionment) Act, 1928, and the Local Government (Scotland) Act, 1929, involve a contribution from the Treasury towards the loss of rates occasioned by de-rating on the basis of the valuation roll for the year 1929-30. As the Inland Revenue were interested so far as regards the contributions from the Exchequer, their officers are accordingly given under the 1928 Act, sec. 9 (10), for the year 1929-30, a similar right of appeal and complaint as is conferred on any party interested. If the Inland Revenue officer is dissatisfied with the decision of the Valuation Committee, he may appeal to the Valuation Appeal Court.[5]

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[6] Sec. 7 of the 1867 Act.

[7] *Jackson & Co.* v. *Assessor for Dumfriesshire*, 1926 S.C. 472; (No. 418); 1926 S.L.T. 131.

[8] Glasgow Corporation Order Confirmation Act, 1924, secs. 29 and 30; Aberdeen Corporation Order Confirmation Act, 1925, secs. 29 and 30; Lanarkshire County Council Order Confirmation Act, 1925, secs. 41 and 42, printed in the Appendix.

[9] Sec. 6 of the 1879 Act.

[1] Sec. 13 of the 1854 Act.

[2] *Rule* v. *Lord Abinger*, 1883, 10 R. 502; (No. 33); 20 S.L.R. 323; *Burgh of Linlithgow*, 1878, 9 R. 1236 (No. 130).

[3] *Blantyre Parochial Board* v. *Assessor for Lanarkshire*, 1883, 10 R. 773; (No. 32); 20 S.L.R. 511.

[4] *M'Gregor* v. *Menzies*, 1874, 4 R. 1144; (No. 105).

Procedure.—The Valuation Committee may cite and examine the parties and their witnesses on oath, and call for all papers and documents which they may think necessary,[6] and appellants may suffer through not producing books to support their contentions.[7] The assessor must attend the meeting of the Court and answer upon oath all questions. No formal record need be kept of the proceedings; only a note of the assessment, appeal, and judgment is necessary. The Committee may, however, order the evidence to be taken down in writing,[8] and either party may require the evidence to be taken down in shorthand at his own expense.[9] In hearing appeals the Valuation Committee occupy a unique position. The opinion has been expressed that they are not in any sense properly a Court, and the assessor is not in any sense a party to a litigation; he is a servant of the County Council or the Magistrates, and he acts in discharge of a public duty.[10] It is probably no ground of challenge that one of the members of the Committee is related to the assessor.[11] On the other hand, it is improper for members of a Committee to take part in the decision of a case in which they have a personal interest.[1] Upon matters of common knowledge or upon public matters the Committee are entitled to bring their local knowledge to bear, but they are not entitled to take into consideration facts regarding the private affairs of a firm (said to be within their personal knowledge), neither admitted nor proved.[2]

Expenses.—Although the procedure applicable to appeals and complaints is generally similar, where a complaint has been made without reasonable or probable cause expenses may be awarded against the complainer;[3] in appeals the Committee have no power to award expenses. There is thus nothing to prevent a party appealing from year to year, and a Committee is not entitled to refuse to hear an appeal on the ground that they disposed of the same questions between the same parties in the preceding year.[4]

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[5] *Inland Revenue* v. *Assessor for Edinburgh and Brewers' Food Supply Co.*, 1930 S.C. 323; 1930 S.L.T. 5; D.A. 5.

[6] Sec. 10 of the 1854 Act; *Deards* v. *Assessor for Edinburgh*, 1911 S.C. 918, at 923; (No. 273); 48 S.L.R. 360; 1911, 1 S.L.T. 148; *Sheriff* v. *Assessor for Argyll*, 1885, 12 R. 919, at 921; (No. 61); 22 S.L.R. 608; *Philp* v. *Assessor for Rothesay*, 1888, 15 R. 627; (No. 87); 25 S.L.R. 462.

[7] *Cowan & Sons* v. *Assessor for Midlothian*, 1894, 21 R. 812; (No. 160); 31 S.L.R. 733; 2 S.L.T. 48.

[8] Sec. 10 of the 1854 Act.

[9] Sec. 8 of the 1879 Act.

[10] *M'Gilvray* v. *Assessor for Oban*, 1916 S.C. 665; (No. 339) at p. 666; 53 S.L.R. 486; 1916, 1 S.L.T. 102.

[11] *M'Gilvray* v. *Assessor for Oban*, *supra*.

[1] *Assessor for Lanarkshire* v. *O'Hara*, 1928 S.C. 391; (No. 428); 1928 S.L.T. 279.

[2] *Craik's, Ltd.* v. *Assessor for Forfar*, 1909 S.C. 658; (No. 262); 46 S.L.R. 438; 1909, 1 S.L.T. 269; approved in *Moyes* v. *Assessor for Perth*, 1912 S.C. 761; (No. 293); 49 S.L.R. 154; 1911, 2 S.L.T. 460.

(2) *To the Valuation Appeal Court.*—Originally the decision of the Commissioners of Supply upon appeals was final and not subject to review.[5] A change was made in 1857, when an appeal by way of stated case was made competent where an officer of Inland Revenue was appointed assessor. If either party declared himself dissatisfied with the Committee's determination, he could require them to state specially and to sign the case upon which the question arose with their determination, and to transmit the case to the Commissioners of Inland Revenue for submission to a Court consisting of the Senior Lord Ordinary and the Lord Ordinary officiating in Exchequer Causes in the Court of Session for their opinion. The valuation was then altered or confirmed in consequence of the decision of the judges.[6] The composition of the Court was altered to any two judges of the Court of Session,[7] and this number was subsequently increased to three.[8] The Court set up by this Act is known as the Lands Valuation Appeal Court, and sits from time to time to dispose of appeals from the Burgh and County Valuation Committees. Their decision is final and not subject to review in any manner of way.[9] Until 1879 the right of appeal was limited to cases where the assessors were officers of Inland Revenue, but by sec. 7 of the Act of that year the right of appeal was made general.

Statement of a Case.—Where either a party interested or the assessor appeals against the decision of the Valuation Committee, the appeal is by way of stated case. The case must set forth (1) the facts proved;[1] (2) the grounds of appeal or complaint; (3) and the replies thereto;[2] (4) the determination of the Committee;[3] and (5) a certified copy of the evidence.[4]

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[3] Sec. 13 of the 1854 Act.

[4] *Lamont* v. *Assessor for Dumfriesshire*, 1900, 2 F. 610; (No. 207); *Smith* v. *Assessor for Argyllshire*, 1885, 12 R. 905; (No. 63); 22 S.L.R. 753.

[5] Sec. 8 of the 1854 Act.

[6] Sec. 2 of the 1857 Act.

[7] Sec. 8 of the 1867 Act.

[8] Local Government (Scotland) Act, 1908, sec. 7 (2).

[9] Sec. 8 of the 1867 Act.

The grounds of appeal and replies must be submitted to the Committee within ten days of the determination of the appeal.[5] The view was taken by Lord Ashmore in an Outer House case that the appellant was given a verbal right of appeal against the determination of the Committee by sec. 7 of the 1879 Act, and that an appellant was not deprived of his right to have a case stated by the fact that he had not submitted his grounds of appeal within ten days after the determination of the case in terms of sec. 9 of that Act.[6] It is usual for the Committee to submit a draft of the case to the parties for their observations.[7] The Committee must themselves state the facts proved,[8] and it is not sufficient for them to refer the Appeal Court to the notes of evidence.[9] Where a Valuation Committee refuse to state a case in circumstances under which they are bound to do so, the Court of Session will ordain them to perform their statutory duty.[1] The appellants are responsible for the form of the case unless they can show that they have done their best to obtain a case properly stated.[2]

Remit for Restatement.—If the case is improperly stated, the Appeal Court may dismiss the appeal or they may remit the case to the Committee for restatement,[3] with directions to the Committee to set forth the facts proved and the grounds of their decision.[4] The Court may remit a case to the Valuation Committee to hear further evidence; and in one case they took this course although the appellant had declined to avail himself of the opportunity of leading evidence before the Committee.[5] The power conferred upon the Court to remit for further information is, however, limited to such matters as a mistake in the statement of the case, the setting forth specific details of matters stated generally, or the correction of a judgment of the Valuation Committee, and the Court will not remit to enable an appellant to lead evidence which was available to him before the Committee.[6]

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[1] Sec. 7 of the 1879 Act.

[2] Sec. 9 of the 1879 Act.

[3] Sec. 2 of the 1857 Act and sec. 7 of the 1879 Act.

[4] Sec. 9 of the 1879 Act.

[5] Sec. 9 of the 1879 Act; *Stein* v. *Assessor for Falkirk*, 1912 S.C. 853; (No. 311); 49 S.L.R. 380; 1912, 1 S.L.T. 295.

[6] *Macandrew, Petitioner*, 1925 S.L.T. 78.

[7] *Stein* v. *Assessor for Falkirk*, *supra.*

[8] *Union Tube Co.* v. *Assessor for Coatbridge*, 1895, 22 R. 583; (No. 164); 32 S.L.R. 425.

[9] *Guardbridge Paper Co.* v. *Assessor for Fife*, 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360; *Steel Co. of Scotland* v. *Assessor for Lanarkshire*, 1892, 19 R. 847; (No. 137); 29 S.L.R. 722; *Rule* v. *Lord Abinger*, 1883, 10 R. 502; (No. 33); 20 S.L.R. 323.

[1] *Macandrew, Petitioner*, 1925 S.L.T. 78.

[2] *Stirling Gaslight Co.* v. *Assessor for Stirling*, 1899, 1 F. 583; (No. 194); 6 S.L.T. 326.

[3] Sec. 9 of the 1879 Act.

[4] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock*, 1898, 25 R. 1229; (No. 192); 35 S.L.R. 943; 6 S.L.T. 148; *Aberdeen District Lunacy Board* v. *Assessor for Aberdeenshire*, 1907 S.C. 737; (No. 247); 44 S.L.R. 429; 14 S.L.T. 792.

Complaints.—The determination of a Valuation Committee upon a complaint made to them by a third party under sec. 13 of the 1854 Act is also subject to review by the Appeal Court.[7]

Finality.—The Valuation Appeal Court is a supreme Court, and its proceedings cannot be set aside by the Court of Session on the ground that they are *ultra vires* and incompetent.[8]

Questions of Value.—The jurisdiction of the Appeal Court is limited to questions of value or questions incidental to value, and no appeal is entertained in regard to any entry in the roll other than that of the annual value.[9] But the Court is not debarred from incidentally determining questions which may affect other entries in the roll, *e.g.*, whether an appellant is proprietor or tenant, where a decision of the yearly value is dependent on these questions,[1] and the Court will entertain an appeal where the true question is one of value, although the determination of the Valuation Committee does not take the form of a decision as to value.[2] The Court also deals with questions of de-rating under the 1926, 1928, and 1929 Acts.[3]

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[5] *Ramsden* v. *Assessor for Inverness*, 1894, 21 R. 797; 31 S.L.R. 472; 1 S.L.T. 532.

[6] *Assessor for Argyllshire* v. *Marquis of Breadalbane*, 1889, 16 R. 793; (No. 96); 26 S.L.R. 529; see *Ramsden* v. *Assessor for Inverness*, *supra*.

[7] *Rule* v. *Lord Abinger*, 1883, 10 R. 502; (No. 33); 20 S.L.R. 323; *Ferrier* v. *Assessor for Edinburgh*, 1892, 19 R. 882; (No. 138); 29 S.L.R. 723.

[8] *Stirling & Sons* v. *Holm*, 1873, 11 M. 480; 45 J. 306; 10 S.L.R. 296.

[9] *British Linen Co.* v. *Assessor for Aberdeen*, 1906, 8 F. 508; (No. 242); 43 S.L.R. 442; 13 S.L.T. 952; Lord Low's opinion: *Cunninghame* v. *Assessor for Ayrshire*, 1895, 22 R. 596; (No. 171); 32 S.L.R. 453; 2 S.L.T. 618; *Vernon & Sons* v. *Assessor for Greenock*, 1924 S.C. 660; (No. 396); 61 S.L.R. 322; 1924 S.L.T. 280; *Distillers Co.* v. *Assessor for Fifeshire*, 1925 S.C. 518; (No. 406); 1925 S.L.T. 309; *Assessor for Glasgow* v. *Glasgow Corporation*, 1929 S.C. 291; (No. 448); 1929 S.L.T. 212.

[1] *Ferguson* v. *Assessor for Inverness-shire*, 1912 S.C. 768; (No. 291); 49 S.L.R. 158; 1911, 2 S.L.T. 505.

[2] *Assessor for Kincardineshire* v. *Heritors of St. Cyrus*, 1915 S.C. 823; (No. 336); 52 S.L.R. 268; 1915, 1 S.L.T. 49.

Functions of the Court.—The findings in fact of the Committee are the basis of the case, and, where the evidence is laid before the Court along with the findings, the Court, while entitled to examine the evidence, will not, unless the great weight of the evidence is against the findings, disregard them.[4] Where new evidence is available, or a material change of circumstances has occurred, the Court will reconsider the question of the value of premises, the value of which has been fixed in previous years by the Court,[5] or where a question is raised which has not been considered in a previous appeal.[6] The Court can review its previous decisions, but there is a heavy onus upon any one who desires to change such a decision.[7] The decisions of the Court regulate the practice of assessors throughout the country, and uniformity is desirable in all interests.[8] The Court will not assume the functions conferred by statute upon the assessor and the Valuation Committee, and will only consider whether the proceedings of the assessor and of the Committee have been in accordance with the true meaning of the Act. The findings in fact of the Committee approximate in sanctity to the findings of a jury, and, where the principles of the assessor's valuation are sound, they will not enter into a detailed examination of the evidence.[9] The Court, moreover, is unwilling to disturb valuations reached by a Committee in the light of their own local knowledge, unless there has been an error in principle,[10] and it is not their practice to overturn the Committee's decision where the Committee appear to have proceeded on a sufficiently correct principle and have applied their minds to the proper questions,[1] and on a question of detail where no question of principle is involved and where there was evidence before the Committee to support their determination.[2]

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[3] See *Inland Revenue* v. *Assessor for Edinburgh and Brewers' Food Supply Co.*, 1930 S.C. 323; 1930 S.L.T. 5; D.A. 5.

[4] *Smith* v. *Assessor for Argyllshire*, 1885, 12 R. 905; (No. 63); 22 S.L.R. 753.

[5] *Webster & Sons* v. *Assessor for Arbroath*, 1908 S.C. 613; (No. 258); 45 S.L.R. 508; 15 S.L.T. 996.

[6] *North British and Mercantile Insurance Co.* v. *Assessor for Edinburgh*, 1910 S.C. 814; (No. 267); 47 S.L.R. 368; 1910, 1 S.L.T. 169.

[7] *Union Bank of Scotland* v. *Assessor for Glasgow*, 1926 S.C. 500; (No. 416); 1926 S.L.T. 163.

[8] *Assessor for Glasgow* v. *Watson*, 1920 S.C. 517; (No. 366); 57 S.L.R. 629; 1920, 2 S.L.T. 262; and also the cases cited *supra*, p. .

[9] *Merry & Cuninghame* v. *Assessor for Lanarkshire*, 1923 S.C. 687; (No. 387); 60 S.L.R. 305; 1923 S.L.T. 274; *M'Jannet* v. *Assessor for Stirling*, 1882, 10 R. 32; (No. 22); 19 S.L.R. 590; *Bank of Scotland* v. *Assessor for Glasgow*, January, 1930, unreported.

[10] *Cadzow Coal Co.* v. *Assessor for Hamilton*, 1905, 7 F. 413; (No. 234); 42 S.L.R. 502; 12 S.L.T. 828.

Onus.—There is a heavy onus upon the assessor if he alleges that a valuation which has stood for a number of years should be increased,[3] and on an appellant who alleges that a valuation which has appeared in the roll for a number of years is excessive.[4] In the absence of any evidence to the contrary, the old valuation stands.[5]

Expenses.—The Court has no power under statute to award expenses, and it is not their practice to make an award of expenses.[6] But they have expressed the view that, if assessors continued in face of express and repeated decisions to raise questions, it would be matter for consideration whether expenses should not be awarded against them.[7]

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[1] *British Oil and Guano Co., Ltd.* v. *Assessor for Ross and Cromarty*, 1900, 2 F. 605; (No. 202); 37 S.L.R. 659; 7 S.L.T. 387.

[2] *Fortescue* v. *Assessor for Kincardineshire*, 1894, 31 S.L.R. 474; (No. 156).

[3] *North of Scotland Electric Light and Power Co.* v. *Assessor for Brechin*, 1909 S.C. 655; (No. 261); 46 S.L.R. 436; 1909, 1 S.L.T. 227; *Maxwell* v. *Assessor for Galashiels*, 1921 S.C. 629; (Nos. 373 and 374); 58 S.L.R. 352; 1921, 1 S.L.T. 272.

[4] *Livingston* v. *Assessor for Paisley*, 1909, 46 S.L.R. 433; 1909, 1 S.L.T. 230.

[5] *Naismith* v. *Assessor for Renfrewshire*, 1921 S.C. 615; (No. 368); 58 S.L.R. 344; 1921, 1 S.L.T. 265. Cf. *Viscountess Cowdray* v. *Assessor for Aberdeenshire*, 1924 S.C. 630; (No. 401); 61 S.L.R. 238; 1924 S.L.T. 263.

[6] *Assessor for Greenock* v. *Wilson*, 1919 S.C. 474; (No. 360); 56 S.L.R. 177; 1919, 1 S.L.T. 109.

[7] *Forbes Irvine* v. *Assessor for Aberdeenshire*, 1893, 20 R. 626; (No. 144); 30 S.L.R. 617.

CHAPTER II.

SUBJECTS ENTERED IN THE VALUATION ROLL.

The object of this chapter is twofold. First, it is intended to show what subjects under the Valuation Acts fall to be entered in the valuation roll. Certain subjects do not appear in the roll, and therefore need not be considered by the assessor at all, and it is therefore necessary to exclude these from consideration. Secondly, once the subjects are selected, it becomes necessary to determine how these subjects are to be entered in the roll, whether individually, as separate entries, or as accessories of some other subject with which they form one entry. These two problems are taken concurrently.

General.

Secs. 1 and 3 of the 1854 Act require all lands and heritages to enter the roll, and sec. 42 thereof gives a definition of the terms lands and heritages. This definition is illustrative only and not limitative.[1] The general rule is that all lands and heritages the occupation of which is or is capable of being of value, although not necessarily in the pecuniary sense, should appear in the roll. No question of rating, and therefore no question of liability to taxation, is a relevant consideration. Churches, for instance, though originally not rated, appeared in the roll with an annual value, and non-rateable property, such as the University of Glasgow,[2] enters the roll. Capacity to yield profit, not the fact that profit is presently earned, is the true criterion. Hence, where a subject is not used at all, or its use is so restricted as to exclude the possibility of profit, the subject must still enter the roll.[3] On the question of the value of such subjects, see page 75.

Unfinished Buildings.—Buildings, although unfinished, must enter the roll, and it is no objection that in their present state they are incapable of making profit on the ground that they are not yet equipped with the necessary fittings.[4]

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[1] See *Glasgow Bridge Trustees* v. *Magistrates of Glasgow*, 1870, 4 P.L.M. 22.

[2] *University of Glasgow*, 1870, 11 M. 982; (No. 72); 4 P.L.M. 214.

[3] See *Sheriff* v. *Assessor for Argyllshire*, 1885, 12 R. 919; (No. 61); 22 S.L.R. 608.

Unoccupied Subjects.—These must enter the roll, though in their existing condition they are of no value for letting purposes.[5] This principle also applies to mills and other subjects temporarily idle.[6]

Subjects in more than one Valuation Area.—Where subjects extend beyond one valuation area, they must be apportioned and separately entered in each area.[7] Minerals under the sea should be entered in the valuation roll of the adjoining parish.[8]

ALPHABETICAL LIST OF SUBJECTS ENTERED IN THE VALUATION ROLL.

Advertising Stations.—Where an advertising contractor erects a hoarding on a piece of ground, however small, on payment of a sum of money to the proprietor, the advertising station falls to be entered in the roll as " a site for an advertising board."[9] Where the tenant then erects an advertising board, this board must also be entered as " advertising board," under the provisions of the Lands Valuation (Scotland) Amendment Act, 1895,[1] though the question was left open in *Wilson & Co., Ltd., supra.* Where a tenant of a house under an ordinary lease obtains a revenue from allowing his house to be used as an advertising station, without the erection of any structure for that purpose, no entry can be made therefor in the roll, as the subject does not fall within the 1895 Act.[2] The Advertising Stations (Rating) Act, 1889,[3] which does not in terms apply to Scotland, was held to do so in *Fry & Sons* v. *Assessor for Edinburgh,*[4] but this was doubted in *Beith, supra,* and in *Wilson & Co., Ltd., supra,* in both of which it was laid down that the 1889 Act in no way alters the prescribed mode of making up the valuation roll.

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[4] *Paterson,* 1878, 9 R. 1237; (No. 135); *Schulze* v. *Assessor for Edinburgh,* 1910 S.C. 804; (No. 265); 47 S.L.R. 376; 1910, 1 S.L.T. 159; *Assessor for Glasgow* v. *Bank of Scotland,* 1925 S.C. 548; (No. 409); 1925 S.L.T. 300; *Provincial Cinematograph Theatres* v. *Assessor for Glasgow,* 1925 S.C. 560; (No. 410); 1925 S.L.T. 294; *Union Bank of Scotland* v. *Assessor for Glasgow,* 1926 S.C. 500; (No. 416); 1926 S.L.T. 163.

[5] *Earl of Home* v. *Assessor for Dundee,* 1891, 18 R. 934; (No. 127); 28 S.L.R. 827.

[6] *Fraser & Sons* v. *Assessor for Arbroath,* 1889, 16 R. 796; 26 S.L.R. 545; *Barbour,* 1878, 9 R. 1236; (No. 133); *Burntisland Oil Co.* v. *Assessor for Fife,* 1895, 23 R. 683; (No. 174); 33 S.L.R. 488; 3 S.L.T. 279.

[7] *United Collieries, Ltd.* v. *Assessors for Lanarkshire and Linlithgowshire,* 1912 S.C. 800; (Nos. 302 and 303); 49 S.L.R. 301; 1912, 1 S.L.T. 177.

[8] *Cunninghame* v. *Assessor for Ayrshire,* 1895, 22 R. 596; (No. 171); 32 S.L.R. 453; 2 S.L.T. 618.

[9] *Beith* v. *Assessor for Glasgow,* 1904, 6 F. 504; (No. 231); 41 S.L.R. 589; 12 S.L.T. 97; *A. J. Wilson & Co., Ltd.* v. *Assessor for Kincardineshire,* 1913 S.C. 704; (No. 213); 50 S.L.R. 240; 1913, 1 S.L.T. 29.

[1] *Beith* v. *Assessor for Glasgow, supra.*

Agricultural Improvements.—See "Improvements."

Asylums.—Public[5] and private[6] asylums are entered in the roll, whether yielding a profit or not.[7]

Bookstalls.—If separate buildings or parts of buildings, they fall to be entered separately.[8] But if situated in a railway station they are regarded as accessories thereof, and are treated as part of the railway undertaking for valuation purposes.[9] The tenant has merely the right of access to the station for certain purposes, with the exclusion of competition. There is therefore no proper lease of the company's buildings or property.[1]

Brickworks.—These are lands and heritages in terms of sec. 42 of the 1854 Act. On the question of their separate entry from a mine to which they are attached for the purpose of utilising pit-waste, see under "Improvements."

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[2] Lord Kyllachy in *Beith* v. *Assessor for Glasgow, supra.*

[3] Sec. 3.—"Where any land is used temporarily or permanently for the exhibition of advertisements, or for the erection of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, but not otherwise occupied, the person who shall permit the same to be used, or (if he cannot be ascertained) the owner thereof, shall be deemed to be in beneficial occupation of such land or part thereof, and shall be rateable in respect thereof to the relief of the poor and to all local rates, according to the value of such use as aforesaid."

Sec. 4.—"Where any land or hereditament occupied for other purposes, and rateable in respect thereof to the relief of the poor and local rates, is used temporarily or permanently for the exhibition of advertisements, or for the erection thereon or attachment thereto of any hoarding, frame, post, wall, or structure used for the exhibition of advertisements, the gross and rateable value of such land or hereditament shall be so estimated as to include the increased value from such use as aforesaid."

[4] 1893, 20 R. 622; (No. 140); 30 S.L.R. 612.

[5] *Banffshire District Lunacy Board,* 1870, 11 M. 982; (No. 71); 44 J. 430; 9 S.L.R. 443; *Barony Parochial Board* v. *Assessor for Dumbartonshire,* 1882, 10 R. 39; (No. 25); 19 S.L.R. 728.

[6] *Glasgow Abstainers' Union* v. *Assessor for Argyllshire,* 1906, 8 F. 500; (No. 244); 43 S.L.R. 320; 13 S.L.T. 765.

[7] *Carnegie Dunfermline Trustees* v. *Assessor for Dunfermline,* 1909 S.C. 678; (No. 263); 46 S.L.R. 451; 1909, 1 S.L.T. 286, per Lord Dundas.

[8] See under "Buildings."

[9] Sec. 22 of the 1854 Act.

[1] *North British Railway Co.* v. *Greig & Mackay,* 1866, 4 M. 645.

Bridges.—So long as dues are leviable from the bridge, it falls to be entered in the valuation roll,[2] and it is no reason for excluding the bridge from entry in the roll that all the money raised by the toll is to be applied to the cost of erection and paying off the debt.[3] Once dues are no longer leviable the bridges are in the same position as the public highway, and need not enter the roll.[4]

Buildings and Pertinents.—For all questions regarding machinery, tenants' improvements, and agricultural improvements, reference should be made to the headings so named. This heading deals only with those pertinents not dealt with elsewhere.

(a) *Fixtures and Fittings in Buildings.*—These subjects fall to be valued only if they are heritable in a question between heir and executor.[5] This principle and the authorities upon which it is based are more fully dealt with under the heading "Machinery." All fittings and fixtures which are heritable are not separately entered in the roll, but appear as one subject along with the principal to which they are attached.

(b) *Houses or Lands occupied in connection with other Subjects.*—In cases of this kind the accessory subjects, since they are lands or heritages, must enter the roll, and the question arises whether they must do so as separate subjects or as parts merely of the principals in connection with which they are occupied. No strict rule can be laid down by which this question can be decided, but generally all parts and pertinents of a subject must be valued as a *unum quid* along with the principal.[6] This rule is, however, subject to modification in at any rate two sets of circumstances.

(i) Where the subjects are let, the terms of the lease have an important bearing upon the question of separate entry in the roll of the principal and accessories. Hence, where two quite distinct sets of premises are let under one lease for a rent apportioned between the two premises, and where *de*

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[2] *Glasgow Bridge Trustees* v. *Magistrates of Glasgow*, 1870, 4 P.L.M. 22; *Magistrates of Dumfries*, 1871, 11 M. 984; (No. 77); 9 S.L.R. 444.

[3] *Ayr Bridge Trustees* v. *Assessor for Ayr*, 1881, 9 R. 1246; (No. 17).

[4] *Dumbartonshire Road Trustees* v. *Assessor for Dumbartonshire*, 1884, 11 R. 571; (No. 47); 21 S.L.R. 401.

[5] *Cowans* v. *Assessor for Forfarshire*, 1910 S.C. 810; (No. 272); 47 S.L.R. 382; 1910, 1 S.L.T. 263.

[6] See sec. 42 of the 1854 Act.

facto the two premises are quite separate though contiguous, the premises are properly entered as one subject.[7] The best illustrations come from mineral subjects. Where the lease is of minerals, and also all mills, houses, buildings, and other lands for a lordship covering all the subjects let, no separate entry is made for the mills, houses, &c.[8] But where a consideration separate from the mineral rent is paid for houses and stores, then these subjects fall to be separately entered.[9] The question of the separate entry of mines and pithead buildings is considered more fully under the heading "Mines."

(ii) The second test for deciding whether subjects are to be entered as a *unum quid* is as follows:—Are the buildings occupied in connection with the principal subjects necessary appurtenances thereof from the point of view of a tenant, and are they so closely bound up with the principal subjects so as to form a unity? If so, then the subjects are entered as a *unum quid*; if not, then the buildings are entered separately from the principal subjects. Outhouses and gardens attached to a dwelling-house form a unity along with the dwelling-house, and should be entered as one subject, "House, offices, and garden."[1] So also a dwelling-house and a farm form a unity and should appear as "Farm";[2] a number of grass parks farmed as one holding are a *unum quid.*[3] Physical discontiguity has sometimes been made the test of whether subjects form a *unum quid*. Where a house is physically separated from certain lands, each must be entered separately,[4] and where dwelling-houses occupied by bank officials are entirely detached from or have no internal connection with the bank buildings, they should be separately entered, but if they form part of the main building, and have internal communication with the business premises, the whole should be entered as a *unum quid.*[5] So a shop without internal communication with a house should be separately entered.[6] Even premises used for totally different purposes all connected with one particular business should be regarded as a *unum quid* if within one range of buildings.[7] These cases, however, are misleading unless regarded from the broader point of view. Physical contiguity or discontiguity is only of importance as casting a light upon the question of unity. The normal test of whether buildings form a *unum quid* is the purpose for which they are used. If several buildings, even though physically disconnected, are all used for various processes in one industry, or as various elements in one industry, they all form part of a *unum quid,* and should be entered as one subject. A hotel and a stable not connected with one another, but used in the same business, form a *unum quid.*[8] Houses and offices used in connection with a public park form with it a *unum quid,*[9] and the same rule applies to a cemetery along with a house and garden used in connection with it,[1] to a bakery, workshop, and stables,[2] and to bank buildings with dwelling-houses occupied by bank officials.[3] All the asylum buildings and offices in an asylum,[4] homes for incurables together with a laundry,[5] and a school and its playground,[6] form a *unum quid,* since the adjunct in each case is used for carrying on the business of their principal, and hence with it forms a single whole. The principle has been recently applied to the case of a garage containing a number of lock-up compartments for motor cars all within the same buildings. The assessor treated the lock-ups as separate lands and heritages, but the Court decided that the business connected with the lock-ups was closely connected with the rest of the business, and that the subjects fell to be valued as a *unum quid.*[7] Where, however, the adjuncts do not form a *unum quid* along with the principals, then they should be separately entered. Hence, land acquired by a parochial board to give employment to pauper lunatics and residences erected for medical offices do not form parts of a lunacy ward of a poorhouse, and must therefore be separately entered.[8] The same rule applies to a farm and plantation both used as an adjunct to an asylum,[9] farm lands and employees' houses acquired by an association for the relief of incurables,[1] and also oilworks connected with a coalfield.[2]

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[7] *Riley, Webster & Borland* v. *Assessor for Glasgow*, 1883, 20 S.L.R. 321; (No. 26).

[8] *Leadhills Silver, &c., Co.* v. *Assessor for Lanarkshire*, 1886, 13 R. 827; (No. 68); 23 S.L.R. 611; compare a somewhat different lease in *Merry & Cuninghame* v. *Assessor for Lanarkshire*, 1895, 22 R. 586; (No. 168); 32 S.L.R. 429.

[9] *Wm. Dixon, Ltd.* v. *Assessor for Lanarkshire*, 1884, 11 R. 844; (No. 48); 21 S.L.R. 562; cf. same parties, 1885, 12 R. 639; (No. 58); 22 S.L.R. 385; *Fleming, Reid & Co.* v. *Assessor for Greenock*, 1884, 11 R. 857; (No. 54); 21 S.L.R. 594; *J. A. Weir, Ltd.* v. *Assessor for Clackmannan*, 1901, 4 F. 513; (No. 213); 38 S.L.R. 853.

[1] *M'Jannet* v. *Assessor for Stirling*, 1882, 10 R. 32; (No. 22); 19 S.L.R. 590.

[2] *Henderson*, 1871, 11 M. 985; (No. 79); 44 J. 431; 9 S.L.R. 445; cf. *Forbes Irvine* v. *Assessor for Aberdeenshire*, 1897, 24 R. 741; (No. 184); 34 S.L.R. 622.

[3] *Maitland* v. *Assessor for Midlothian*, 1893, 20 R. 628; (No. 143); 30 S.L.R. 618.

[4] *Glass*, 1872, 11 M. 988; (No. 87); 44 J. 433; 9 S.L.R. 446.

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[5] *Bank of Scotland* v. *Assessor for Edinburgh,* 1890, 17 R. 839; (No. 107); 27 S.L.R. 611; 1891, 18 R. 936; (No. 117); 28 S.L.R. 619.

[6] *Urie,* 1873, 11 M. 990; (No. 96); cf. *Walker,* 1861, 24 D. 1453; (No. 28).

[7] *St. Cuthbert's Co-operative Association* v. *Assessor for Edinburgh,* 1896, 23 R. 681; (No. 173); 33 S.L.R. 487; 3 S.L.T. 278.

[8] *Philip* v. *Assessor for Elginshire,* 1912 S.C. 774; (No. 292); 49 S.L.R. 160; 1911, 2 S.L.T. 508.

[9] *Glasgow Parish Council* v. *Assessor for Glasgow,* 1911 S.C. 988; (No. 290); 48 S.L.R. 677; 1911, 1 S.L.T. 453; 1912 S.C. 818; (No. 306); 49 S.L.R. 315; 1912, 1 S.L.T. 157, 171.

[1] *Edinburgh Parish Council* v. *Edinburgh Magistrates,* 1912 S.C. 793; (No. 309); 49 S.L.R. 307; 1912, 1 S.L.T. 129.

[2] *St. Cuthbert's Co-operative Association* v. *Assessor for Edinburgh,* 1896, 23 R. 681, *supra.*

[3] *Bank of Scotland* v. *Assessor for Edinburgh,* 1891, 18 R. 936; (No. 117); 28 S.L.R. 619.

[4] *Govan District Lunacy Board* v. *Assessor for Renfrewshire,* 1899, 1 F. 591; (No. 193); 36 S.L.R. 603.

[5] *Glasgow Association for the Relief of Incurables* v. *Assessor for Dumbartonshire,* 1907 S.C. 769; (No. 249); 44 S.L.R. 441; 14 S.L.T. 878.

[6] *Merchant Company Education Board* v. *Assessor for Edinburgh,* 1911 S.C. 948; (No. 284); 48 S.L.R. 387; 1911, 1 S.L.T. 233.

Under the Rating and Valuation (Apportionment) Act, 1928, and the Local Government (Scotland) Act, 1929, where subjects are used partly for industrial and partly for non-industrial purposes, and the industrial part would, if regarded as a unit of valuation, be entitled to be de-rated, the practice of assessors has been to make separate entries in the valuation roll, if the industrial part, though intercommunicating with the non-industrial part, is yet capable, by reason of having a separate entrance, of being separately let and occupied. This practice has been expressly disapproved by the Appeal Court in several cases.[3] For a consideration of the recent cases under the Rating (Scotland) Act, 1926, and the 1928 Act, dealing with this question, reference should be made to Chapter VIII.

Cab Stance (Railway).—Like a bookstall, this is in most cases an accessory to a railway undertaking, for by agreement of parties all that is created is the exclusive privilege of supplying cabs to passengers. A cab stance, therefore, falls to be treated not as a separate entry, but as an accessory to the undertaking granting the exclusive privilege.[4]

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[7] *Broomhill Motor Co.* v. *Assessor for Glasgow,* 1927 S.C. 447; (No. 419); 1927 S.L.T. 189.

[8] *Barony Parochial Board* v. *Assessor for Dumbartonshire,* 1882, 10 R. 39; (No. 25); 19 S.L.R. 728.

[9] *Govan District Lunacy Board* v. *Assessor for Renfrewshire, supra.*

[1] *Glasgow Association for the Relief of Incurables* v. *Assessor for Dumbartonshire, supra.*

[2] *Drumgray Coal Co.,* 1867, 11 M. 977; (No. 55).

[3] See p. 131. Cf. *Inland Revenue* v. *Assessor for Edinburgh* (*Sinclair*), 1930 S.N. 5; 1930 S.L.T. 165, Lord Hunter at p. 166.

Canals.—It is now firmly established that a canal or canal basin falls to be entered in the roll of the Assessor of Railways and Canals. The whole undertaking falls to be regarded as one indivisible composite heritable subject.[5]

Cemeteries.—Cemeteries are also lands and heritages within the Valuation Acts, and must enter the roll.[6]

Churches and Chapels.—It has been decided that parish churches are not to be entered in the roll,[7] on the ground that they are *extra commercium* and cannot be the subject of a lease. The proper course is to insert the entry in the roll and to place " no value " against it.[8] In the case of a private episcopal chapel, however, an entry is competent.[9]

Circus.—See " Showgrounds."

Coal Works.—These are " lands and heritages " in terms of sec. 42 of the 1854 Act. See " Mines and Minerals."

Copse.—This is one of the subjects specially mentioned in sec. 42 of the 1854 Act, but by the terms of that section appears in the roll, only if revenue is actually derived from it.

Crown Lands.—Crown lands, though not rateable, should be entered in the valuation roll.

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[4] *North British Railway Co.* v. *Greig & Mackay*, 1866, 4 M. 645.

[5] *Anderson* v. *Union Canal Co.*, 1839, 1 D. 648; 1847, 9 D. 402. See also sec. 42 of the 1854 Act.

[6] *Craigton Cemetery Co.* v. *Assessor for Lower Ward of Lanarkshire*, 1889, 16 R. 802; (No. 98); 26 S.L.R. 527. See also *Sighthill Cemetery Co. and Craigton Cemetery Co.* v. *Assessor for Glasgow*, 1927 S.C. 485; (No. 427); 1927 S.L.T. 554; *Falkirk Parish Council* v. *Assessor for Stirlingshire*, 1928 S.C. 405; (No. 429); 1928 S.L.T. 217; *Assessor for Aberdeen* v. *Aberdeen Cemetery Co.*, 1929 S.C. 275; (No. 444); 1928 S.L.T. 641.

[7] *Assessor for Kincardineshire* v. *Heritors of St. Cyrus*, 1915 S.C. 823; (No. 336); 52 S.L.R. 268; 1915, 1 S.L.T. 49; *Heritors of Kingoldrum*, 1877, 4 R. 1149; (No. 123); reversing *Heritors of New Monkland*, 1872, 11 M. 986; (No. 83).

[8] *Assessor for Kincardineshire* v. *Heritors of St. Cyrus*, *supra.*

[9] *Menzies*, 1873, 11 M. 989; (No. 91); 45 J. 585.

Deer Forests.—The 1854 Act, sec. 42, as amended by the Sporting Lands Rating (Scotland) Act, 1886, makes all deer forests, whether let or unlet, liable to be entered in the roll. The entry " deer forest " may cover a forest only, or may include a lodge or lodges let along with the deer forest. Where, however, the tenant is bound under the lease of the forest to erect a lodge, the subjects must be described as " deer forest with buildings attached thereto."

Docks.—See " Harbours."

Electricity Mains.—It is now clearly decided, despite at one time considerable hesitation, that electricity mains are lands and heritages,[10] and even the wires inside the pipes are parts of this land and heritage.[1] Though these subjects are lands and heritages, they fall to be assessed as accessories to and therefore included within the undertaking of which they are part. They do not accordingly appear in the roll as separate entries.

Factories.—These are lands and heritages.

Ferries.—They are lands and heritages in terms of sec. 42 of the 1854 Act, and must appear in the roll. If the right of ferry is merely a pertinent of an estate in the titles, it is regarded as a pertinent of the estate for valuation purposes, and not separately entered,[2] but if let along with a hotel the ferry and hotel should be entered as one subject.[3] Where a ferry is over a river separating two parishes, the ferry should be entered in both if it is a corporeal subject, and in one only if it is incorporeal. A ferry worked by chains attached to piers is corporeal,[4] one consisting of a right to use the surface of the water for carrying goods or persons across is incorporeal.[5] Public and private ferries must both be entered.[6] Ferries acquired by railway companies are included as parts of the railway.[7]

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[10] *Falkirk Joint Stock Gas Co., Ltd.*, 1864, 4 M. 1133; (No. 41).

[1] *Coatbridge and Airdrie Electric Supply Co., Ltd.* v. *Assessor for Coatbridge*, 1907 S.C. 780; (No. 250); 44 S.L.R. 454; 14 S.L.T. 937.

[2] *Anderson* v. *Gillanders*, 1853, 15 D. 577.

[3] *Lord Blantyre*, 1877, 4 R. 1150; (No. 125).

[4] *Lord Blantyre, supra.*

[5] *Anderson* v. *Gillanders, supra.*

[6] *Scottish Central Railway Co.*, 1863, 1 M. 1198; (No. 38).

[7] See sec. 22 of the 1854 Act.

Feu-Duties.—As these are not separate lands and heritages, but merely a burden on proprietary rights, they do not fall to be entered in the roll as separate subjects.[8] The subjects on which the feu-duties form a burden are themselves fully assessed. These need not therefore be separately entered.

Fishings.—Salmon fishings fall to be entered in the roll as lands and heritages.[9] It is immaterial whether or not the salmon fishings are let.[1] Annual payments for damage to fishing,[2] and sums paid by upper proprietors to lower proprietors for abstention from netting,[3] do not fall to be entered as salmon fishings or rights of net fishing, but are omitted for valuation purposes altogether. Rights of fishing belonging to the public in general are not entered in the roll, but where these rights become vested in an individual, then an entry falls to be made,[4] since such rights then become the source of a yearly rent or value. Hence, rights of fishing of certain kinds which are of no value need not be entered in the roll—as, for instance, unpreserved fishing in pleasure grounds.[5] But preserved fishing if valuable falls to be entered.[6] Oyster fishing, if leased by the Crown tenant, is similarly assessable, and as yielding a yearly value must appear in the roll.[7]

Forests.—See "Deer Forests" or "Woods."

Gasworks and Pipes.—Gasworks fall to be entered and valued as one subject.[8] Gas pipes, therefore, are entered in the roll along with the principal subjects under the heading "Gasworks."[9] But if they are situated in a different parish from the gasworks they are entered as "Pipes."

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[8] See *Heritors of Leith* v. *Magistrates of Edinburgh*, 1833, reported in 15 S. 203 (note).

[9] *Baird*, 1861, 24 D. 1456; (No. 32).

[1] *Baird, supra; Assessor for Aberdeenshire* v. *Lady Cowdray*, 1911 S.C. 970; (No. 287); 48 S.L.R. 395; 1911, 1 S.L.T. 231; *Dee Salmon Fisheries Co.* v. *Assessor for Aberdeen*, 1915 S.C. 790; (No. 337); 52 S.L.R. 178; 1914, 2 S.L.T. 457.

[2] *Magistrates of Renfrew*, 1868, 11 M. 979; (No. 59).

[3] *Assessor for Elginshire* v. *Duke of Richmond and Gordon*, 1905, 7 F. 424; (No. 236); 42 S.L.R. 512; 12 S.L.T. 831.

[4] *Lord Herries*, 1883, 11 R. 397; (No. 39); 21 S.L.R. 539.

[5] Evidence before Commission on Rating and Valuation (Scotland), 1888, Q. 3478.

[6] *Ibid.*, Q. 3114. Compare the opinion of Lord Johnston in *Assessor for Aberdeenshire* v. *Lady Cowdray, supra*, and observations in *Don District Fishery Board* v. *Burnett*, 1918 S.C. 37; 55 S.L.R. 90; 1917, 2 S.L.T. 183.

[7] *Wallace* v. *Assessor for Wigtownshire*, 1902, 4 F. 515; (No. 218); 39 S.L.R. 570; 9 S.L.T. 515.

[8] *Falkirk Joint Stock Gas Co., Ltd.*, 1864, 4 M. 1133; (No. 41).

Glebes.—As capable of profitable occupation, these subjects fall to be entered in the roll.

Grass Parks.—See "Parks."

Harbours.—Wharfs, docks, piers, harbours, quays, &c., are lands and heritages in terms of sec. 42 of the 1854 Act, and must therefore enter the roll.[1] It is immaterial whether or not the dues levied can defray expenditure.[2] An incorporeal right of harbour may or may not be assessable. Such a right is assessable only where a specific grant of a right of harbour has been given, as in *Gardiner* v. *Leith Dock Commissioners*,[3] and not where there is merely a right to levy dues on a public river.[4] A channel dredged outwith a harbour is similarly not entered in the roll.[5] Hence, where dues are levied in gross for the use of quays and river, assessors must determine the proportion of dues applicable to each, since the former only are assessable.[6] Piers forming adjuncts to a ferry should probably be entered as pertinents of the ferry, and not as separate subjects.[7]

Hospitals.—These must enter the roll whether yielding a profit or not.[8]

Houses.—See "Buildings."

Improvements.—These can be divided into two classes: (1) improvements made by a proprietor occupying his own subjects or by a tenant under a lease where the rent is not the fair annual value of the subjects. Such improvements fall to be treated not as separate entries, but as adjuncts of the subjects to which they apply, and are valued accordingly along with the principal subjects; and (2) improvements made by tenants under leases which do fix a fair annual value. Under the provisions of the 1854 Act (sec. 6) these improvements fall to be regarded as adjuncts of the subjects. In this case, as the rent is deemed to be a fair measure of the annual value, the improvements would not be valued at all. To meet this difficulty an alteration was introduced by the Lands Valuation (Scotland) Amendment Act, 1895. In the case of erections and structural improvements of various kinds, a separate entry of such subjects falls to be made in the roll; they must be separately valued, and the tenant must appear as the proprietor thereof.

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[9] See sec. 23 of the 1854 Act.

[1] *Leith Dock Commissioners* v. *Miles*, 1866, 4 M. (H.L.) 14.

[2] *Stonehaven Harbour Trustees*, 1865, 4 M. 1139; (No. 46).

[3] 1864, 2 M. 1234; 1866, 4 M. (H.L.) 14.

[4] *Adamson* v. *Clyde Navigation Trustees*, 1863, 1 M. 974; this case was appealed to the House of Lords on another point.

[5] *Leith Docks Commissioners* v. *Magistrates of Leith*, 1911 S.C. 1139; 48 S.L.R. 919; 1911, 2 S.L.T. 141.

[6] *Clyde Navigation Trustees*, 1866, 4 M. 1143; (No. 51); *Assessor for Lanarkshire* v. *Clyde Navigation Trustees*, 1908 S.C. 620; (No. 257); 45 S.L.R. 501; 15 S.L.T. 970; *Nith Navigation Commissioners*, 1873, 11 M. 991; (No. 97).

[7] See *Baillie* v. *Hay*, 1866, 4 M. 625.

[8] See Lord Dundas in *Carnegie Dunfermline Trustees* v. *Assessor for Dunfermline*, 1909 S.C. 678; (No. 263); 46 S.L.R. 451; 1909, 1 S.L.T. 286.

Buildings in order to come within the provisions of the 1895 Act must comply with two conditions. Firstly, they must be erected not by mere squatters,[9] nor by prior tenants,[1] but by the lessees of the subjects,[2] holding by a lease under which the rent is the fair annual value of the lands as let.[3] Secondly, the buildings must be erections or structural improvements within the meaning of the section. These words are intentionally vague and general. Moveable structures are not erections, as they cannot be lands and heritages. Absence of physical attachment or removeability without injury are, however, not conclusive tests of a structure being moveable; the test is, in a question between heir and executor, would this erection be regarded as heritable?[4] The term "erections" is not confined to buildings, but applies also to heritable machinery.[5] An advertisement board may be an erection.[6] These two conditions, however, if satisfied, bring more subjects within the 1895 Act than is intended, and there are accordingly three excepted classes of structures which are excluded from the provisions laid down in the 1895 Act. Subjects falling within any of these exceptions escape entry in the roll either as separate subjects or as adjuncts of a principal.

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[9] *Young & Sons* v. *Assessor for Peebles*, 1899, 1 F. 579; (No. 195); 36 S.L.R. 597; 6 S.L.T. 326.

[1] *Peggie* v. *Assessor for Kirkcaldy*, 1901, 3 F. 462; (No. 209); 38 S.L.R. 492; 8 S.L.T. 409.

[2] *Popular Amusements, Ltd.* v. *Assessor for Edinburgh*, 1909 S.C. 645; (No. 259); 46 S.L.R. 426; 1909, 1 S.L.T. 223.

[3] *Assessor for Glasgow* v. *Clyde Shipping Co.*, 1920 S.C. 510; (No. 365); 57 S.L.R. 554; 1920, 2 S.L.T. 191.

[4] *Gilchrist* v. *Assessor for Lanarkshire*, 1898, 25 R. 589; (No. 187); 35 S.L.R. 663; 5 S.L.T. 330; *Assessor for Glasgow* v. *Gilmartin*, 1920 S.C. 488; (No. 362); 57 S.L.R. 224; 1920, 1 S.L.T. 191.

[5] *Assessor for Glasgow* v. *Watson*, 1920 S.C. 517; (No. 366); 57 S.L.R. 629; 1920, 2 S.L.T. 262; cf. *Peggie* v. *Assessor for Kirkcaldy*, 1901, 3 F. 462, *supra*, for observations on "erections."

[6] See *A. & J. Wilson & Co.* v. *Assessor for Kincardineshire*, 1913 S.C. 704; (No. 213); 50 S.L.R. 240; 1913, 1 S.L.T. 29.

(1) Erections for agricultural purposes by lessees of subjects wholly or mainly agricultural.[7] "Agricultural" is to be interpreted in its usual and popular sense, and does not therefore include "horticultural" or land given up to forestry. Market gardens are not agricultural subjects, and greenhouses for cultivating tomatoes do not fall within this first exemption, but fall to be separately valued.[8] The Small Landholders Act, 1911, is no protection to a smallholder who extends his holding beyond a merely agricultural one. Hence, dwelling-houses enlarged by smallholders to admit of accommodating summer visitors,[9] houses built by the holder, shops and glass-houses,[1] all fall to be separately valued.

(2) Erections or structural improvements, used exclusively for the purpose of working or cleaning minerals, let under a *bona-fide* lease in respect of which mineral rent or lordship is stipulated to be paid, are similarly excluded from the provisions of the 1895 Act.[2] The reason is that such erections are necessary to make the minerals available for assessment, and in valuing the minerals on the basis of the rent a value is indirectly placed upon these structures. The erections must be used solely for working or cleaning minerals. Hence, erections made for the purpose of converting minerals into finished products,[3] and erections used partly for working and cleaning minerals let under the lease which entitled the company to put them up, and partly in connection with minerals worked under other leases, do not come within the exception.[4] Electric lighting plant used exclusively for the ordinary busi-

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[7] Sec. 4 (1) of the 1895 Act.

[8] *Gilchrist* v. *Assessor for Lanarkshire*, 1898, 25 R. 589; (No. 187); 35 S.L.R. 663; 5 S.L.T. 330.

[9] *Sym* v. *Assessor for Bute*, 1915 S.C. 781; (Nos. 329, 330, and 331); 52 S.L.R. 199; 1915, 1 S.L.T. 41.

[1] *Blane* v. *Assessor for Ayrshire*, 1915 S.C. 797; (No. 332); 52 S.L.R. 265; 1915, 1 S.L.T. 47.

[2] Sec. 4 (2).

[3] *Gartverrie Fireclay Co.* v. *Assessor for Lanarkshire*, 1897, 24 R. 738; (No. 183); 34 S.L.R. 619; 4 S.L.T. 295; *Scottish Freestone Quarries, Ltd.* v. *Assessor for Dumfriesshire*, 1900, 2 F. 602; (No. 206); 37 S.L.R. 660; 7 S.L.T. 465.

[4] *John G. Stein & Co., Ltd.* v. *Assessor for Stirlingshire*, 1915 S.C. 775; (No. 328); 52 S.L.R. 196; 1914, 2 S.L.T. 436.

ness of surface operations at a colliery, and also for lighting the pit bottom, falls within the exclusion, and therefore is not separately valued.[5] "Minerals" includes every substance got for profit from beneath the earth, and is not restricted to coal and iron.[6] It therefore includes clay,[7] and blaes,[8] but a right to recover tar and ammonia from gases in a blast furnace is not a lease of minerals.[9]

(3) The third category of subjects exempted from the provisions of the 1895 Act is coke ovens, and other structures in which coke or other minerals are treated, where the rent or lordship stipulated under the lease is calculated upon the coke or other minerals as treated in such ovens or other structures.[1]

There are three requisites for bringing a structure within the sub-section and for exempting it from separate assessment.

(i) The first requisite is that the rent or lordship in the lease must be calculated on the minerals as treated in these structures. The object of the 1895 Act was to include in the roll tenants' erections which otherwise would never be valued at all. Therefore, where the erections enhance the value of the product, and that enhanced value is the basis of fixing the annual value of the subjects, a separate entry for the erections would involve their being assessed twice over. Again, where the terms of the lease are such as to include in the rent a payment for tenants' erections, then a separate valuation of such erections would be inequitable.[2] But where the rent is calculated not upon the minerals as treated in the structures and finished, but upon the raw material only, the structures are not included in the valuation of the subjects, and therefore must be separately valued.[3] It is of no consequence whether the tenant has power in his lease to bring in minerals from outside or not.[4] Where the rent or lordship is partly for manufactured and partly for raw materials, the structures are within the sub-section and not assessable, since the royalty for raw materials has nothing to do with the structures; the royalty is calculated purely upon the mineral when treated.[5] But where the tenant uses pit waste from other collieries on which no royalty was paid, the structures are assessable.[6]

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[5] *Assessor for Fifeshire* v. *Wemyss Coal Co.*, 1903, 5 F. 505; (No. 228); cf. *Assessor for Portobello* v. *Mitchell & Sons*, 1896, 23 R. 686; (No. 177); 33 S.L.R. 520.

[6] *Cleghorn Terra-Cotta Co., Ltd.* v. *Assessor for Lanarkshire*, 1900, 2 F. 600; (No. 201); 37 S.L.R. 658; 7 S.L.T. 386.

[7] *Assessor for Portobello* v. *Mitchell & Sons*, *supra*.

[8] *Assessor for Stirlingshire* v. *Stein & Co.*, 1900, 2 F. 596; (No. 203); 37 S.L.R. 656; 7 S.L.T. 385.

[9] *Furnace Gases Co., Ltd.* v. *Assessor for Lanarkshire*, 1896, 23 R. 689; (No. 179); 30 S.L.R. 609.

[1] Sec. 4 (3).

[2] *Newall* v. *Assessor for Kirkcudbright*, 1919 S.C. 468; (No. 361); 56 S.L.R. 110; 1919, 1 S.L.T. 13.

[3] *Gartverrie Fireclay Co.* v. *Assessor for Lanarkshire*, 1897, 24 R. 738; (No. 183); 34 S.L.R. 619; 4 S.L.T. 295.

(ii) The second requisite to bring structures within the sub-section is that they must be coke ovens or other structures in which coal or other minerals are treated. Various structures for grinding, moulding, and baking blaes and turning it out into bricks and for crushing granite stones[7] are regarded as involving the "treatment of minerals," and satisfy this requisite, and, accordingly, the production of completely manufactured articles as well as the mere conversion of minerals into a marketable commodity are included within the "treatment" of minerals.

(iii) Thirdly, the lease must be a lease of minerals. For a definition of "minerals," see *supra*, page 30.

Interest, Places of.—If lands and heritages, they must appear in the roll.[8]

Ironworks.—These are "lands and heritages." Each falls to be regarded as a single subject consisting of engines, furnaces, &c.[9] The question of which of the various accessories should be regarded as parts of the subject is dealt with on pages 27-31.

Kelp Shores.—These may form a valuable subject, and therefore should be assessed. Where the right to gather seaweed is leased to a company, kelp shores should be entered as a separate subject;[1] where, however, the right has not been let, but is valuable, it must similarly enter the roll.[2]

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[4] *Assessor for Stirlingshire* v. *Stein & Co.*, 1900, 2 F. 596; (No. 203); 37 S.L.R. 656; 7 S.L.T. 385; cf. *Cleghorn Terra-Cotta Co., Ltd.* v. *Assessor for Lanarkshire*, 1900, 2 F. 600; (No. 201); 37 S.L.R. 658; 7 S.L.T. 386.

[5] *Cleghorn Terra-Cotta Co.* v. *Assessor for Lanarkshire*, *supra.*

[6] *John G. Stein & Co.* v. *Assessor for Stirlingshire*, 1915 S.C. 775; (No. 328); 52 S.L.R. 196; 1914, 2 S.L.T. 436; *Niddrie and Benhar Coal Co.* v. *Assessor for Edinburgh*, 1927 S.C. 470; (No. 423); 1927, S.L.T. 155.

[7] *Newall* v. *Assessor for Kirkcudbright*, *supra; Assessor for Stirlingshire* v. *Stein & Co.*, *supra;* and *Cleghorn Terra-Cotta Co.* v. *Assessor for Lanarkshire*, *supra.*

[8] *Ross* v. *Assessor for Upper Ward of Lanarkshire*, 1898, 3 F. 461; (No. 189); cf. *Maxwell Scott* v. *Assessor for Roxburghshire*, 1890, 17 R. 833; (No. 103); 27 S.L.R. 606; *Maxwell Scott's Trustees* v. *Assessor for Roxburghshire*, 1902, 4 F. 536; (No. 216); 39 S.L.R. 852.

[9] *Addie*, 1868, 11 M. 979; (No. 61).

Lands.—It is the general term used to cover every beneficial use or occupation of a subject. It is not limited to agricultural lands. A definition of the term " lands and heritages " will be found in sec. 42 of the 1854 Act.

Limeworks.—These are specifically mentioned as lands and heritages in sec. 42 of the 1854 Act.

Lochs.—Normally they are let or occupied merely as an adjunct of an estate. In these circumstances they should not be entered separately from the estate, as they have no value apart from it.[3] A loch may be separately entered where it is separately let, or has an individual attraction for fishing, boating, or amenity.[4]

Lunatic Asylum.—This also falls to be entered in the roll, even though it be supported solely by public rates.[5]

Machinery, Tools, and Appliances.—The 1854 Act included within lands and heritages " all machinery fixed or attached to any lands or heritages " (sec. 42). As the generality of this provision dealt hardly with certain subjects, an alteration was introduced by the Lands Valuation (Scotland) Amendment Act, 1902. Under this amendment (1) all machinery, machines, or plant for transmitting or producing first motive power or for heating or lighting, and which is *in a building* occupied for any trade, business, or manufacturing process, shall be included within the definition of lands and heritages irrespective of its attachment; and (2) machines, tools, and appliances which are *in* any such building, and which can be removed from their place without the necessity of the removal of any part of that building, are not included within the definition. These two categories of machinery as laid down in the 1902 Act are quite separate. Once any particular subject is found to be a machine for the purpose of heating, lighting, or transmitting first motive power, "then, apart from any question of attachment, and apart from any question of whether the machinery is capable of being disconnected without injury to the building, it falls to be treated as heritage."[6] There are thus three categories into which machinery, tools, and appliances fall: (1) The first category mentioned in the 1902 Act, (2) the second category in that Act, and (3) all other machinery. We shall examine each category in turn and see that in each a different rule applies for ascertaining whether or not the machinery in question is assessable.

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[1] *British Seaweed Co., Ltd.*, 1866, 4 M. 1139; (No. 47).

[2] *Gordon of Cluny*, 1866, 4 M. 1141; (No. 48).

[3] *Assessor for Aberdeenshire* v. *Lady Cowdray*, 1911 S.C. 970; (No. 287); 48 S.L.R. 395; 1911, 1 S.L.T. 231.

[4] *Ross* v. *Assessor for Upper Ward of Lanarkshire*, 1898, 3 F. 461; (No. 189).

[5] *Banffshire District Lunacy Board*, 1870, 11 M. 982; (No. 71); 44 J. 430; 9 S.L.R. 443.

1. The first category embraces all machinery, machines, or plant in or on any lands or heritages which is in any building occupied for any trade, business, or manfacturing process, and which is used for (a) producing or transmitting first motive power, (b) heating, or (c) lighting such building.[7] If any particular subject falls within this definition, then that subject in virtue of this section falls to be assessed. The only phrases in the definition which cause doubt are buildings occupied for trade, business, or manufacturing process, and the uses of the machinery. As regards "buildings," it has been laid down that a building is not necessarily something enclosed by walls as well as a roof; uprights supporting roofs without sides or uprights supporting roofs with splits covering only a portion of the sides are still buildings.[8] As regards the uses of machinery, the Courts have already applied the statute in several practical instances.

(a) *Machinery used for producing or transmitting First Motive Power.*—First motive power has nowhere been precisely defined. Lord Salvesen, in *Assessor for Glasgow* v. *Watson, supra,* expressed the opinion that it referred to the factory in which the power is employed, and not to the source of the supply of electric energy. Within the statutory definition fall electric motors owned by the proprietors, being the only mechanical power in the factory and driven by a current supplied by a generating station belonging to another company,[9] as also are all boilers employed in raising steam for the engines which produced the motive power, though part of that steam was used in later manufacturing processes, pumps feeding the boilers, filters, mechanical plant stoking and raking out furnaces, and the main shafting driven by the first motive power engine, though not the secondary shafting driven off that main shafting.[1] Dynamos driven by steam engines are not machines of first motive power,[2] and where current is brought in from outside, and the current is converted by a motor generator composed of two distinct units—the motor and the converting generator driven by the motor—the motor portion of the motor generator alone falls to be included as a machine of first power. Where the convertor is a rotary convertor, not divisible into a motor and a generator, the whole convertor (by concession) was regarded as heritable.[3] In *Assessor for Glasgow* v. *Watson, supra,* where nothing in the case enabled the Court to separate two functions performed by one machine, the machine could not be regarded as limited to the production or transmission of first power. The fact that machinery is only used occasionally, or certain parts are used in rotation, still means it must all be entered at its full value.[4] Steam plant which drives electric power machinery in electricity works is heritable, while the electric power machinery is not machinery of first motive power.[5] Steam hammers are not machinery of first motive power.[6]

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[6] Per Lord Salvesen in *Aberdeen Fish Manure and Oil Co.* v. *Assessor for Kincardineshire,* 1916 S.C. 681, at p. 684; (No. 341); 53 S.L.R. 492; 1916, 1 S.L.T. 81; cf. *Nairn & Co.* v. *Assessor for Kirkcaldy,* 1915 S.C. 801, per Lord Johnston at 811; (No. 326); 52 S.L.R. 256; 1915, 1 S.L.T. 58; and the comments thereon in *Assessor for Glasgow* v. *Watson,* 1920 S.C. 517; (No. 366); 57 S.L.R. 629; 1920, 2 S.L.T. 262.

[7] 1902 Act, sec. 1.

[8] *Colville & Sons* v. *Assessor for Lanarkshire,* 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

(b) *Heating.*—In a linoleum factory the hot-air apparatus used to dry linoleum by raising the temperature in the drying room is plant for heating such buildings,[7] since heating is not restricted to heating for occupation only. Drying machines in a fish manure factory are not machines for heating buildings.[8]

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[9] *Etna Iron and Steel Co.* v. *Assessor for Lanarkshire,* 1919 S.C. 474; (No. 359); 56 S.L.R. 113; 1919, 1 S.L.T. 29; *Assessor for Glasgow* v. *Watson,* 1920 S.C. 517; (No. 366); 57 S.L.R. 629; 1920, 2 S.L.T. 262.

[1] *Guardbridge Paper Co.* v. *Assessor for Fife,* 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360.

[2] *Coatbridge and Airdrie Electric Supply Co., Ltd.* v. *Assessor for Coatbridge,* 1907 S.C. 780; (No. 250); 44 S.L.R. 454; 14 S.L.T. 937.

[3] *Colville & Sons* v. *Assessor for Lanarkshire,* 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

[4] *Guardbridge Paper Co.* v. *Assessor for Fife, supra.*

[5] *Coatbridge and Airdrie Electric Supply Co., Ltd.* v. *Assessor for Coatbridge,* 1907 S.C. 780, *supra.*

[6] *G. & T. Weir* v. *Assessor for Glasgow,* 1924 S.C. 670; (No. 392); 61 S.L.R. 384; 1924 S.L.T. 310.

[7] *Nairn & Co.* v. *Assessor for Kirkcaldy,* 1915 S.C. 801; (No. 326); 52 S.L.R. 256; 1915, 1 S.L.T. 58.

(c) *Lighting.*—Generally, machinery used for this purpose falls to be treated as assessable. But where the machinery is primarily a power plant, and the current used for lighting is a small proportion only, no value may be attributable to the lighting.[9]

2. The second category includes all machines, tools, and appliances in any building occupied for any trade, business, or manufacturing process which are only so fixed that they can be removed from their place without necessitating the removal of any part of the building.[1] When such subjects can be removed without injury to buildings, they are moveable, and not assessable. If injury to buildings would result from their removal they are heritable. For a definition of "buildings," see *supra*, page 33. The following have been regarded as moveable, since their removal involved no injury to the buildings in which they were situated:—Motor generators, switchboards, balances, and batteries,[2] bed frames for drying linoleum 40 feet high and 100 yards long, weighing a ton per yard, and just resting on the floor,[3] frames for drying fish manure, which were connected by steam pipes with the factory boilers and feed pumps, and were resting on iron pedestals connected by holding-down bolts to concrete blocks sunk in the soil,[4] rotary furnaces, soda recovery plant, tanks and grass boilers in paper works,[5] machinery bolted down to a foundation and levelled up by wedges with cement poured in round the wedges (despite the fact that to remove the machinery the cement would require to be broken), rails for cranes which were attached to brackets by bolts and nuts, the brackets being riveted to the framework of the building, and iron frames laid across transverse walls in the building for supporting bars of steel while cooling, rolling mills, and

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[8] *Aberdeen Fish Manure and Oil Co., Ltd.* v. *Assessor for Kincardineshire*, 1916 S.C. 681; (No. 341); 53 S.L.R. 492; 1916, 1 S.L.T. 81.

[9] *Colville & Sons* v. *Assessor for Lanarkshire*, *supra.*

[1] 1902 Act, sec. 1.

[2] *Coatbridge and Airdrie Electric Supply Co., Ltd.* v. *Assessor for Coatbridge*, *supra.*

[3] *Nairn & Co.* v. *Assessor for Kirkcaldy*, *supra.*

[4] *Aberdeen Fish Manure and Oil Co.* v. *Assessor for Kincardineshire*, *supra.*

[5] *Guardbridge Paper Co.* v. *Assessor for Fife*, 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360.

other kinds of mills (in some cases of several hundred tons in weight), saws, straightening machines, &c.[6] Foundations fall to be assessed as parts of the buildings, and are not regarded as parts of the machinery.[7] The sole test, therefore, in this category is " removal " from the buildings.

3. Lastly, there are all the various kinds of machinery not included within the above two categories, and not therefore falling within the 1902 Act. Here the sole test for assessment is the attachment to the lands and heritages. The question of the amount of attachment necessary in order to include machinery within assessable subjects has now been authoritatively settled. The law of fixtures as between heir and executor is the law that must be followed, with one possible exception, viz., cases may be figured in which articles of themselves clearly moveable yet go to the heir as being heritable *destinatione,* and to that extent the heir's right may sometimes include subjects which could not possibly enter the valuation roll.[8] The law of fixtures as between heir and executor has been laid down in *Fisher* v. *Dixon*[9] and *Brand's Trustees* v. *Brand's Trustees*;[1] and the principles of these cases were incorporated into the law of valuation by *G. & T. Weir* v. *Assessor for Glasgow, supra.* They may briefly be stated as follows:—(a) Principle of actual annexation: There are two tests for this—(1) Whatever is attached either directly or indirectly by being joined to what is attached to the ground whether or not it is capable of being removed entire or without injury is heritable; (2) loose articles, which though not physically attached to the ground or to the fixed machinery are yet necessary for the working of it, and are so constructed as to form part of the particular machinery and not so as to be equally capable of being applied in their existing state to other machinery of the same kind, are also heritable. (b) Principle of intention: The test here is whether the machine is fixed for the improvement of the lands to which it is attached, or merely for the better enjoyment of the machine

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[6] *Colville & Sons* v. *Assessor for Lanarkshire, supra.*

[7] *Aberdeen Fish Manure and Oil Co.* v. *Assessor for Kincardineshire, supra.*

[8] Per Lord Kyllachy in *Assessor for Dundee* v. *Carmichael & Co.,* 1902, 4 F. 525, at 532; (No. 221); 39 S.L.R. 573; 9 S.L.T. 513; approved of in *G. & T. Weir* v. *Assessor for Glasgow,* 1924 S.C. 670, at 682, per Lord Hunter.

[9] 1845, 4 Bell's App. 286.

[1] 1876, 3 R. (H.L.) 16; 12 S.L.R. 124.

itself, *e.g.*, to secure steadiness. In the former case it is heritable, in the latter moveable. No question of encouragement to trade as a test of intention is relevant. In conformity with this principle of distinction a flour mill, stones, dressing mill, corn mill, barley mill, and sweet mill, fixed by screws and bolts, was held to be heritable and therefore assessable;[2] whereas machinery not physically attached is not assessable.[3] Large engines fixed by bolts and nuts to specially prepared foundations are heritable.[4] But a drilling machine 5 tons in weight merely resting on a sole plate, a morticing machine 4 tons in weight resting on a concrete foundation without bolts, and travelling cranes running on rails bolted to wooden beams fixed to the walls, are not fixed or attached.[5] Copper mains laid loose in pipes in the public street fall to be assessed.[6] Large cast-iron plates used for paving the inside of buildings in steel works, but which are not attached to the ground, are moveable, as they are part of the tenant's and not the hypothetical landlord's fittings,[7] and a weighbridge, tower crane, gantry, hydraulic steam crane, and hydraulic accumulators are all heritable as being so attached to the ground as to form part of the surface of the ground. Upper parts of such machines, though removeable, are essential to the use and working of the machine as a whole, and are therefore heritable.[8] A " bogie " used for running heavy steel plates into and out of an annealing furnace, although forming part of the floor of the furnace, was held to be moveable on the ground that it was not part of the furnace.[9] This same test for fixtures applies to all fittings and fixtures in buildings as well as to machinery. Grates, gas-fittings, chandeliers, blinds, curtain poles, and picture rods are attached to the house, as they are heritable in a question between heir and executor, and are therefore assessable as parts of the house.[1] Mirrors and barometers are moveable, and so not assessable.[2] Fittings and fixtures are never entered as separate items, but are parts of the house to which they are attached.

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[2] *Chalmers*, 1871, 11 M. 983; (No. 75); 44 J. 430; 9 S.L.R. 444.

[3] *North British Railway* v. *Assessor of Railways and Canals*, (O.H.) 1887, 25 S.L.R. 4.

[4] *Cowan & Sons, Ltd.* v. *Assessor for Midlothian*, 1894, 21 R. 812; (No. 160); 31 S.L.R. 733; 2 S.L.T. 48. See *Assessor for Dundee* v. *Carmichael & Co.*, 1902, 4 F. 525, *infra*.

[5] *Assessor for Dundee* v. *Carmichael & Co., Ltd.*, 1902, 4 F. 525; (No. 221); 39 S.L.R. 573; 9 S.L.T. 513.

[6] *Coatbridge and Airdrie Electric Supply Co., Ltd.* v. *Assessor for Coatbridge*, 1907 S.C. 780, *supra*.

[7] *Colville & Sons* v. *Assessor for Lanarkshire*, 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

[8] *G. & T. Weir* v. *Assessor for Glasgow*, 1924 S.C. 670, *supra*.

[9] *Beardmore & Co.* v. *Assessor for Glasgow*, 1926 S.C. 483; (No. 415); 1926 S.L.T. 172.

Markets.—A toll on goods imposed in virtue of a right of market is not a payment for the use of lands and heritages, and is therefore not entered in the roll as a subject "Market stance."[3] But where dues are paid for the use of the area of a market, such a market should enter the roll, though probably under the heading "Shops, stalls, &c.,"[4] unless the stances are the *solum* of the public streets, in which case they should not enter the roll, as the street cannot be the subject of a lease.[5]

Meters, Gas.—If in consumers' houses these are not regarded as lands and heritages.[6]

Minerals.—See "Mines."

Mines.—These fall to be valued as a whole, and the various buildings connected with the mines are therefore not separately entered. Hence in the mine are included the machinery, railways, and pithead buildings, which only have their value as adjuncts of the mine.[7] Where any undertaking is carried on as an adjunct or accessory to the mining, then normally the whole will be entered as a *unum quid.*[8] But where the terms of the lease are such as to make a separate rent payable for any particular adjunct, then that adjunct should be entered separately.[9] For the principles on which these decisions are based, see "Buildings and Pertinents," page 20. For the question of a separate entry of structures erected by the tenant, see page 27. The question of what machinery is included in the entry is dealt with on page 32, and the question of wayleaves is dealt with on page 45. According to the 1854 Act (sec. 42), no mine shall be assessed unless it has been worked during some part of the year to which the assessment applies. Minerals, however, are liable to assessment, though they have not been worked during the year of assessment. The distinction between mines and minerals appears to be—an unopened field of minerals let for a fixed rent is not a mine, but is assessable as "minerals." Once work begins, then it becomes a mine, and will be assessable as a mine. If work stops, and the tenant brings no evidence to show that the mineral is exhausted, but, on the contrary, continues to pay his rent, then the field is assessed not as a mine, but as "minerals."[1] A right to prevent surface damage[2] and the right to compensation for surface damage[3] are not separate lands and heritages falling to be entered in the roll, and can also be ignored in fixing the annual value of the subjects.

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[1] *Cowans* v. *Assessor for Forfarshire*, 1910 S.C. 180; (No. 272); 47 S.L.R. 382; 1910, 1 S.L.T. 263; *Gilchrist* v. *Assessor for Lanarkshire*, 1898, 25 R. 589; (No. 187); 35 S.L.R. 663; 5 S.L.T. 330.

[2] See *Brand's Trustees*, 1876, 3 R. (H.L.) 16, *supra.*

[3] *Burgh of Inverurie*, 1875, 4 R. 1147; (No. 116).

[4] *Town of Inverness*, 1874, 4 R. 1144; (No. 110).

[5] *Aberdeen City Treasurer*, 1877, 4 R. 1149; (No. 124).

[6] *Falkirk Joint Stock Gas Co., Ltd.*, 1864, 4 M. 1133; (No. 41).

[7] *Carron Co.*, 1864, 4 M. 1133; (No. 40); *Leadhills Silver, &c., Co.* v. *Assessor for Lanarkshire*, 1886, 13 R. 827; (No. 68); 23 S.L.R. 611.

[8] *Coltness Iron Co.* v. *Assessor for Linlithgowshire*, 1882, 10 R. 21; (No. 19), where coal mining was combined with iron-making; and *Leadhills Silver, &c., Co., Ltd.* v. *Assessor for Lanarkshire*, *supra*, where coal mining was combined with smelting.

[9] *Drumgray Coal Co.*, 1867, 11 M. 977; (No. 55), where the mineral lease did not include the ground upon which the oilworks were erected; cf. *Dalmeny Oil Co.* v. *Assessor for Linlithgowshire*, 1884, 11 R. 566; (No. 44); 21 S.L.R. 400; and *William Dixon, Ltd.* v. *Assessor for Middle Ward of Lanarkshire*, 1885, 12 R. 639; (No. 58); 22 S.L.R. 385.

Moss.—When a rent is derived from a moss for the privilege of cutting and carrying away peats, the "moss" must be entered in the roll as "moss rents," even though the same subject may be let as pasture ground, which would be another separate entry.[4]

Multures.—Uncommuted multures are pertinents of a mill, and as such are taken into account in valuing the mill. But when commuted into an annual sum either under a contract to pay an annuity secured on the lands in lieu of multures[5] or under the statute[6] multures cease to form an element in the value of any mill, and are not lands and heritages. They do not then fall to be entered in the roll.

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[1] *Blantyre Parochial Board* v. *Assessor for Lanarkshire*, 1883, 10 R. 773; (No. 32); 20 S.L.R. 511; *United Collieries, Ltd.* v. *Assessor for Lanarkshire and Linlithgowshire*, 1912 S.C. 800; (Nos. 302 and 303); 49 S.L.R. 301; 1912, 1 S.L.T. 177; *Hermand Oil Co., Ltd.* v. *Assessor for Midlothian*, 1893, 20 R. 633; (No. 152); 30 S.L.R. 662; 1 S.L.T. 30.

[2] *Assessor for Fife* v. *Curror*, 1888, 15 R. 632; (No. 89); 25 S.L.R. 465.

[3] *Harvie* v. *Assessor for Upper Ward of Lanarkshire*, 1893, 20 R. 630; (No. 142); 30 S.L.R. 613.

[4] *Forbes*, 1873, 11 M. 990; (No. 95); 45 J. 585; 10 S.L.R. 662.

[5] *M'Leod*, 1869, 11 M. 980; (No. 65).

[6] *Duchess of Sutherland*, 1869, 11 M. 980; (No. 64).

Parks.—Public parks must be entered in the roll. A park held by a Corporation for public recreation,[7] or a park dedicated by statute to public use,[8] or even Crown property in the lands of the heritable keeper of the King's Park of Holyrood,[9] all appear in the roll. Private parks if farmed as one holding fall to be entered as one subject.[1]

Peat-cutting.—See " Moss."

Piers.—See " Harbours."

Pipes—Gas, Water, and Electricity.—The portion of ground occupied by the pipes is a fit subject for valuation, for the company laying down the pipes has an exclusive right to the piece of ground and not merely a servitude over it.[2] The pipes themselves fall to be included in the roll. This is now firmly established by a long series of decisions.[3] The pipes and the ground occupied by them are treated as adjuncts of the undertaking to which they belong, and need not therefore have a separate entry in the roll, unless they are situated in a different parish from that in which the principal subject is situated. Under sec. 23 of the 1854 Act provision is made for the *cumulo* valuation by the Assessor of Railways and Canals of all the pipes belonging to a single undertaking situated in different parishes, and for the distribution among the various parishes of that sum. The method of distribution is to give to each parish the proportion of the total annual value which the structural cost of the works in that parish bore to the total structural cost. The English method of distinguishing between the indirectly productive part and the directly productive part of the undertaking has been held inapplicable.[4]

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[7] *Ferrier* v. *Assessor for Edinburgh*, 1892, 19 R. 1074; (No. 138); 29 S.L.R. 723; *Carnegie Dunfermline Trustees* v. *Assessor for Dunfermline*, 1909 S.C. 678; (No. 263); 46 S.L.R. 451; 1909, 1 S.L.T. 286; *Glasgow Parish Council* v. *Assessor for Glasgow*, 1912 S.C. 818; (Nos. 306 and 307); 49 S.L.R. 315; 1912, 1 S.L.T. 157, 171; overruling the decision of the Court in the previous year in the same case.

[8] *Parish Council of Edinburgh* v. *Assessor for Edinburgh*, 1910 S.C. 823; (Nos. 269, 270); 47 S.L.R. 414; 1910, 1 S.L.T. 290.

[9] *Ross* v. *Earl of Haddington*, 1824, 3 S. 115.

[1] *Maitland* v. *Assessor for Midlothian*, 1893, 20 R. 628; (No. 143); 30 S.L.R. 618.

[2] *Hay* v. *Edinburgh Water Co.*, 1850, 12 D. 1240; 1854, 1 Macq. 682; *Barony Parish Road Trustees* v. *Glasgow Water Commissioners*, 1868, 7 M. 106.

[3] *Falkirk Joint Stock Gas Co., Ltd.*, 1864, 4 M. 1133; (No. 41); *Hawick Parish Council* v. *Urban Electric Supply Co.*, 1906, 8 F. 504; (No. 246); 43 S.L.R. 448; 13 S.L.T. 931; *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891; *Bo'ness Town Council* v. *Assessor for Linlithgowshire*, 1907 S.C. 774; (No. 251); 44 S.L.R. 437; 14 S.L.T. 888; *Coatbridge and Airdrie Electric Supply Co.* v. *Assessor for Coatbridge*, 1907 S.C. 780; (No. 250); 44 S.L.R. 454; 14 S.L.T. 937.

Prison.—Though not yielding any profit, this subject must appear in the roll.[5]

Quarries.—Quarries, like mines, must only be entered in the roll if worked during part of the year of assessment.[6] Hence, where a quarry is not worked during any part of the year in question, no entry falls to be made in the roll for the quarry or the stone.

Quays.—See " Harbours."

Railways.—These are lands and heritages, and are dealt with in Chapter VII.

Railway Sidings.—These are not separately entered, but are regarded as parts of an undertaking, and valued accordingly.[7]

Recreation Grounds.—Lands owned and occupied by a Corporation as recreation grounds for the employees of their tramways, gas, and electricity departments probably form part of the respective undertakings, and fall to be entered along with these undertakings in the roll of the Assessor of Railways and Canals.[8]

Rivers.—See " Waterways."

Roads.—Public roads being for the public advantage and not for private gain are not assessable; private roads, however, are permanent improvements, and as such are pertinents of the lands and heritages to which they belong. The 1895 Act does not apply to them.

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[4] *Dundee Water Commissioners* v. *Dundee Road Trustees*, 1883, 11 R. 390; (Nos. 35, 36, 37); 21 S.L.R. 261.

[5] Per Lord Dundas in *Carnegie Dunfermline Trustees* v. *Assessor for Dunfermline*, 1909 S.C. 678; (No. 263); 46 S.L.R. 451; 1909, 1 S.L.T. 286; *Renfrewshire Prison Board*, 1865, 4 M. 1137; (No. 45).

[6] 1854 Act, sec. 42; *Blantyre Parochial Board* v. *Assessor for Lanarkshire*, 1883, 10 R. 773; (No. 32); 20 S.L.R. 511; *Lord Elphinstone* v. *Assessor for Middle Ward of Lanarkshire*, 1888, 15 R. 637; (No. 92); 25 S.L.R. 466.

[7] *Assessor for Lanarkshire* v. *Colville & Sons*, 1923 S.C. 708; (No. 386); 60 S.L.R. 315; 1923 S.L.T. 289.

[8] *Assessor for Glasgow* v. *Glasgow Corporation*, 1929 S.C. 291; (No. 448); 1929 S.L.T. 212.

Sand Pits.—These subjects, if they are being worked, should appear in the roll.[9]

Sewers.—A conduit for carrying off effluent from a mill belonging to a private company is assessable,[1] and public sewers are similarly assessable either as pertinents of sewerage purification works if within the same area,[2] as pertinents of the houses where their value is reflected in the rent,[3] or as separate subjects where situated in another parish than their principals.[4] See also under "Pipes."

Shootings.—Under the 1854 Act, as amended by the Sporting Lands Rating (Scotland) Act, 1886, shootings are lands and heritages, and therefore assessable whether let or unlet. Shootings should be a separate entry along with pasture lands where *de facto* the same land is used for both purposes, though only one entry should be made where *de facto* the land is used exclusively for one or other.[5] Where buildings are included in a lease of shooting, the buildings are a pertinent of the shootings, and the entry should be "Shootings with buildings attached thereto."

Showgrounds.—Ground used as a showground by travelling shows which paid the proprietor a certain sum for the temporary right of occupancy is entered in the roll as "Land (market place)."[6]

Slag Heaps.—These subjects are not mines or minerals, but if a proprietor lease a slag heap to a tenant, with the right to remove and use the slag heap for his own purpose, the heap is rightly entered in the roll.[7]

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[9] *John M'Adam & Sons* v. *Assessor for Aberdeen,* 1927, 37 P.L.M. 197.

[1] *Inveresk Paper Co.* v. *Assessor for Musselburgh,* 1907 S.C. 747; (No. 248); 44 S.L.R. 433; 14 S.L.T. 790.

[2] *Assessor for Aberdeen* v. *Magistrates of Aberdeen, Assessor for Lanark* v. *Magistrates of Lanark,* 1913 S.C. 712; (Nos. 316, 317); 50 S.L.R. 244; 1913, 1 S.L.T. 38.

[3] *Assessor for Dumbartonshire* v. *Baird & Co.,* 1926 S.C. 479; (No. 412); 1926 S.L.T. 129.

[4] *Magistrates of Dundee* v. *Assessor for Forfarshire,* 1912 S.C. 848; (No. 310); 49 S.L.R. 333; 1912, 1 S.L.T. 175.

[5] *Assessor for Argyllshire* v. *Stuart,* 1888, 15 R. 588; (No. 84); 25 S.L.R. 315; *Lord Middleton* v. *Assessor for Ross-shire,* 1882, 10 R. 28; (No. 21); 19 S.L.R. 564; *Maitland* v. *Assessor for Midlothian,* 1888, 15 R. 592; (No. 85); 25 S.L.R. 318.

[6] *Stevenson* v. *Assessor for Upper Ward of Lanarkshire,* 1901, 3 F. 459; (No. 210); 38 S.L.R. 494; 8 S.L.T. 440.

[7] *Airdrie, Coatbridge, and District Water Trustees* v. *Assessor for Lanarkshire,* 1908 S.C. 596; (No. 254); 45 S.L.R. 491; 15 S.L.T. 889; cf.

Telegraph and Telephones.—Telegraph and telephone poles and wires must appear in the roll as lands and heritages,[8] on the ground that the poles and wires resemble a series of bridges. Their value is fixed as at the date of acquisition.[9] As the Crown is owner and occupier, they are not liable to assessment.

Tenants' Improvements.—See " Improvements."

Tolls.—Not being lands and heritages, tolls do not enter the roll as such, but when they are paid for the use of land to a proprietor or occupier, then they must be taken account of in assessing the value of such lands. Quay dues paid to the proprietors of quays,[1] shore and dock dues paid to the proprietors of the shore and dock,[2] bridge dues,[3] and tolls for places of beauty,[4] are all taken into account in fixing the annual value of the various lands and heritages for the use of which they are paid. Where, however, there is no owner or occupier, the dues are not assessable.[5] Tolls, however, to see articles of interest in a house,[6] tolls paid for a personal privilege,[7] tolls paid for the sale of goods as distinct from those paid for a market stance (which latter are really a type of rent under a lease),[8] and tolls collected by a body under a statutory power, but without any title to the lands and heritages to which these tolls apply,[9] do not appear in the roll.

Assessor for Stirlingshire v. *Stein & Co.*, 1900, 2 F. 596; (No. 203); 37 S.L.R. 656; 7 S.L.T. 385—a case of blaes. See also *Hurll* v. *Assessor for Glasgow*, 1917 S.C. 494; (No. 346); 54 S.L.R. 242; 1917, 1 S.L.T. 106; *Inland Revenue* v. *Lord Belhaven and Stenton's Executors*, 1925 S.C. 635; 1925 S.L.T. 466—a case under the Income Tax Acts, Sched. A.

[8] *Corporation of Glasgow* v. *Wood*, 1907 S.C. 275; 44 S.L.R. 229; 14 S.L.T. 20; following *Lancashire Telephone Co.* v. *Manchester Overseers*, 1884, 14 Q.B.D. 267; *Electric Telegraph Co.* v. *Salford Overseers*, 1855, 11 Ex. 181.

[9] Telegraph Act, 1868, sec. 22.

[1] *Adamson* v. *Clyde Navigation Trustees*, 1863, 1 M. 974.

[2] *Gardiner* v. *Leith Dock Commissioners*, 1864, 2 M. 1234; aff. *Leith Dock Commissioners* v. *Miles*, 1866, 4 M. (H.L.) 14.

[3] *Magistrates of Dumfries*, 1871, 11 M. 984; (No. 77); 9 S.L.R. 444.

[4] *Ross* v. *Assessor for Upper Ward of Lanarkshire*, 1898, 3 F. 461; (No. 189).

[5] *Adamson* v. *Clyde Navigation Trustees*, *supra;* and also see p. 52.

[6] *Maxwell Scott* v. *Assessor for Roxburghshire*, 1890, 17 R. 833; (No. 103); 27 S.L.R. 606.

[7] *Mitchell*, 1866, 4 M. 1142; (No. 49).

[8] *Aberdeen City Treasurer*, 1877, 4 R. 1149; (No. 124); *Stevenson* v. *Assessor for Upper Ward of Lanarkshire*, 1901, 3 F. 459; (No. 210); 38 S.L.R. 494; 8 S.L.T. 440.

[9] *Adamson* v. *Clyde Navigation Trustees*, *supra; Assessor for Lanarkshire* v. *Clyde Navigation Trustees*, 1908 S.C. 620; (No. 257); 45 S.L.R. 501; 15 S.L.T. 970. See also *Inland Revenue* v. *Forth Conservancy Board*, 1929 S.C. (H.L.) 1; 1929 S.L.T. 4.

Trade Profits.—These subjects are not entered separately, but in some cases form an item for consideration in assessing the value of their relative undertakings. See *infra*, page 85.

Tramways.—Tramways are regarded as a type of railway, and are therefore assessable by the Assessor of Railways and Canals.[1] It is immaterial for this question whether or not the promoters of the tramway have a feudal title.[2]

Underwood.—By sec. 42 of the 1854 Act this subject does appear in the roll, but only when revenue is actually derived from it.

University.—This is a fit subject for entry in the roll.[3]

Waste Land.—Even though of no present value, waste land should be entered in the roll and valued at a nominal sum.

Water Pipes.—See " Pipes—Water."

Water Power and Waterways.—These do not fall to be separately entered, but appear as accessories of the waterworks[4] and of the mill[5] to which they belong. A channel dredged below low-water mark is not entered in the roll.[6]

Waterfalls.—See " Tolls," and " Interest, Places of." Where no toll is levied, the subject does not enter the roll.

Waterworks.—These subjects are liable to assessment, whether run for profit or for the benefit of a certain community.[7]

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[1] *Corporation of Glasgow* v. *Assessor of Railways and Canals*, (O.H.) 1911 S.C. 1364; 48 S.L.R. 4; 1910, 1 S.L.T. 383.

[2] *Craig* v. *Edinburgh Street Tramways Co.*, 1874, 1 R. 947; 11 S.L.R. 541; following *Pimlico Tramway Co.* v. *Greenwich*, 1873, L.R. 9 Q.B. 9.

[3] *University of Glasgow* v. *Magistrates of Partick*, 1870, 11 M. 982; (No. 72); 43 J. 181; 44 J. 430; 8 S.L.R. 284; 9 S.L.R. 443.

[4] *Shaws Water Company* v. *Greenock Police Trustees*, 1862, 24 D. 1306; 1863, 1 M. (H.L.) 59.

[5] *Fleming, Reid & Co.* v. *Assessor for Greenock*, 1884, 11 R. 857; (No. 54); 21 S.L.R. 594.

[6] *Leith Docks Commissioners* v. *Magistrates of Leith*, 1911 S.C. 1139; 48 S.L.R. 919; 1911, 2 S.L.T. 141.

[7] *Magistrates of Castle-Douglas*, 1881, 9 R. 1243; (No. 5); *Police Commissioners of Dalbeattie* v. *Assessor for Kirkcudbrightshire*, 1882, 10 R. 23; (No. 20); 19 S.L.R. 568; *Hay* v. *Edinburgh Water Co.*, 1850, 12 D. 1240; 1854, 1 Macq. 682; *Avondale Parish Council* v. *Middle Ward District Committee of Lanarkshire*, 1898, 25 R. 594; (No. 188); 35 S.L.R. 668; 5 S.L.T. 384.

Wayleaves.—These fall to be treated as pertinents of the lands or undertakings to which they belong.[8]

Woods.—Notwithstanding a dictum of Lord Johnston in *Assessor for Aberdeenshire* v. *Lady Cowdray*,[9] that woods should only appear in the roll if actually yielding a revenue, it is the practice to enter woodlands as pasture or grazing ground.[1] Ornamental woods are entered as parts of a mansion-house, and not as separate subjects. Land planted with certain trees to raise crops from the same roots at intervals should be entered as yielding a revenue.

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[8] *Wallace*, 1880, 9 R. 1238; (No. 167); *Barr, Higgins & M'Culloch*, 1881, 9 R. 1245; (No. 10), which implicitly overrule *Addie and Rankin*, 1859, 24 D. 1454; (No. 19), as a statement of the law apart from specialities.

[9] 1911 S.C. 970; (No. 287); 48 S.L.R. 395; 1911, 1 S.L.T. 231.

[1] See *Allan* v. *Dunlop*, 1858, 20 D. 1354; (No. 4); *Lord Forbes*, 1861, 24 D. 1458; (No. 31).

CHAPTER III.

PARTIES ENTERED IN THE ROLL.

PROPRIETORS.

By sec. 1 of the 1854 Act the assessor is bound to enter in the roll the proprietor or reputed proprietor of each subject. By sec. 42 of the same Act " proprietor " is defined to apply to liferenters as well as fiars, and to tutors, curators, commissioners, trustees, adjudgers, wadsetters, or other persons in actual receipt of the rents and profits of lands and heritages. The test, therefore, by which the proprietor is identified is not title nor the kind or purpose of the possession of the subjects. The proprietor may have no feudal title; he may have a disputed right to be there at all. But he is the proprietor if he is actually in receipt of the rents and profits of the subject.[1]

Heritable Creditors.—The onus of proving that a heritable creditor is in actual receipt of the rents and profits is upon the assessor.[2] To become proprietor the heritable creditor must be proved to have taken legal proceedings to get possession. Advertisement for sale under powers contained in the bond and disposition in security is not enough to make the creditor proprietor,[3] though it is enough to be in possession under a decree of maills and duties.[4] It is to be noted, however, that even where a creditor is actually in receipt of the rents under a decree of maills and duties, it is still competent to enter the true owner as proprietor; but that where the proprietor was correctly on the roll it is incompetent to demand payment of rates for the years during which the proprietor was on the roll from the creditor whose name did not appear on the roll.[5]

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[1] See *Lord Herries*, 1883, 11 R. 397; (No. 39); 21 S.L.R. 539 (a proprietor of white fishings); see also *Miller* v. *Gray*, 1929 S.C. 564; 1929 S.L.T. 496.

[2] *Ritchie*, 1881, 9 R. 1244; (No. 6).

[3] *Bryden's Trustees*, 1881, 9 R. 1244; (No. 7).

[4] *Bryden's Trustees, supra;* cf. *Scottish Central Railway Co.*, 1863, 1 M. 1198; (No. 38).

[5] *Lanarkshire County Council* v. *Miller*, 1917 S.C. 35; 54 S.L.R. 45; 1916, 2 S.L.T. 236.

Statutory Trustees.—Though such bodies are incapable of making profits out of the property which they administer, they are still proprietors thereof. Hence, where waterworks could yield no profit to the local authority who administered them, the local authority were nevertheless the proprietors.[6]

The appropriate entry for the proprietor of the manse and glebe falls within this category. Hence in normal circumstances the minister was the proprietor of the manse and glebe.[7] The heritors of the parish and the presbytery of the bounds were entered as proprietors, "holding in trust for the benefice," of a quarry on the minister's glebe for which a tenant paid a rent to a management committee of the heritors and presbytery.[8] Under the Church of Scotland (Property and Endowments) Act, 1925, provision is made for the transfer of parish churches, manses, and glebes to the Church of Scotland General Trustees, and where the transfer has been effected the General Trustees are entered in the roll as proprietors.

Mid-superiors.—There cannot be two proprietors over the same subject, and hence, just as superiors cannot be proprietors where there is a vassal in beneficial occupation, so neither can a mid-superior be a proprietor.[9]

Congested Districts Board.—Purchasers of crofts under the Congested Districts (Scotland) Act, 1897, are proprietors from the date of sale, although the price is payable by instalments; possession is given immediately, but a formal title is not granted until the last instalment is paid.[1]

Tenants entered as Proprietors—(a) *Ordinary Leases.*—In a lease of not more than twenty-one years' duration (or in minerals thirty-one years), where the tenant in possession under the lease makes or acquires erections or structural improvements which fall within the scope of sec. 4 of the 1895 Act, the tenant shall be deemed to be the proprietor thereof and entered as such in the roll.[2] Where the erections fall within the three excepted heads of that section, or are not erections within the meaning of the section at all, then they are not separately entered, and the tenant cannot accordingly appear as proprietor.

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[6] *Magistrates of Castle-Douglas*, 1881, 9 R. 1243; (No. 5); cf. *Gardiner* v. *Leith Docks Commissioners*, 1864, 2 M. 1234; 1866, 4 M. (H.L.) 14.

[7] *Cowan* v. *Gordon*, 1868, 6 M. 1018; 40 J. 597; 5 S.L.R. 645.

[8] *Heritors of Kirkmabreck*, 1861, 24 D. 1456; (No. 27).

[9] *Abercromby* v. *Badenoch*, (O.H.) 1909, 47 S.L.R. 18; 1909, 2 S.L.T. 114.

[1] *Ferguson* v. *Assessor for Inverness-shire*, 1912 S.C. 768; (No. 291); 49 S.L.R. 158; 1911, 2 S.L.T. 505.

[2] See sec. 4 of the 1895 Act, *supra*, p. 27.

(b) *Long Leases.*—In a lease for more than twenty-one years (or in the case of minerals thirty-one years), the tenant is regarded as the proprietor.[3] Hence a railway company were rightly entered as proprietors of a railway station held on a long lease from another company.[4] On the question of what constitutes a long lease, see *infra*, page 72.

Squatters.—Squatters erecting houses under a mere permission by the owner of the lands, and paying no rent therefor, even though they do sublet the houses so erected, are not proprietors of these subjects either under the 1854 Act or under the 1895 Act (sec. 4), since these subjects truly belong to the owner of the lands.[5]

TENANTS.

Tenants and occupiers as well as proprietors must be entered in the roll.[6] Much that could be said under the heading " tenants " is more akin to " occupiers," and is dealt with under that heading. Where there is no tenant, the word " unlet " or " empty " is substituted in the tenant's column.

Type of Tenancy required.—Any one who holds the subjects under a lease not exceeding twenty-one years (or in minerals thirty-one years) is a tenant, and as such must appear in the roll. This is probably equally true of even seasonal tenants under a lease for several seasons.[7] On the question of tenancies for less than a year, or at a rent not amounting to £4 per annum and small dwelling-houses, see *infra*, page 52, *voce* " occupiers." Where ground is let to a committee for the purposes of an exhibition under a lease prohibiting subletting, but empowering the allocation of space to exhibitors and charging therefor, such exhibitors are not lessees of the ground, and therefore cannot enter the roll as tenants.[8]

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[3] Sec. 6 of the 1854 Act.

[4] *Dempster* v. *Munro*, 1882, 12 P.L.M. 632; *Wallace* v. *Munro*, 1883, 12 P.L.M. 636.

[5] *Young & Sons* v. *Assessor for Peebles*, 1899, 1 F. 579; (No. 195); 36 S.L.R. 597; 6 S.L.T. 326.

[6] 1854 Act, sec. 1.

[7] *Dante* v. *Assessor for Ayr*, 1922 S.C. 109; 59 S.L.R. 101; 1922 S.L.T. 74.

Termination of Tenancy.—Where the tenant renounces his lease, and the renunciation is intimated to the assessor before 8th September, the assessor must not enter the tenant as such in the roll.[9] So also the assessor cannot enter as tenant a firm dissolved by the death of one partner and bankruptcy of the other.[1]

Sub-tenants.—See under "Occupiers," page 50.

Outgoing and Incoming Tenants.—See *infra*, page 50.

OCCUPIERS.

Where there is an occupier, his name and designation must be given in the roll.[2] Where, in the absence of a tenant, the proprietor occupies his own property, the occupier's column contains the name of the proprietor or the word "proprietor." According to the English rating statutes, occupiers only and not proprietors in England are liable to assessment, and this distinction is an important indication of the danger of importing English authorities into Scottish valuation law. No definition of "occupier" is given in the Valuation Acts, and to ascertain whom it embraces it is necessary to examine the judicial dicta on the subject. From these it is possible to select four distinct considerations, each of which must be satisfied before any one can become an "occupier" within the meaning of the statutes.

1. *Title.*—The title or absence of title of the occupier is of no importance to the assessor. In the case of *Duke of Richmond*[3] there were *de facto* occupiers, some of whom had and some of whom had not a legal title on which they occupied the subjects. All, however, were rightly entered in the roll, since all were *de facto* occupiers. All attempts to

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[8] *Popular Amusements, Ltd.* v. *Assessor for Edinburgh*, 1909 S.C. 645; (No. 259); 46 S.L.R. 426; 1909, 1 S.L.T. 223.

[9] *Scottish Lands and Buildings Co.* v. *Assessor for Edinburgh*, 1884, 11 R. 568; (Nos. 45 and 46); 21 S.L.R. 403. See *Vernon & Sons* v. *Assessor for Greenock*, 1924 S.C. 660; (No. 396); 61 S.L.R. 322; 1924 S.L.T. 280.

[1] *Clunas and Allison's Trustee* v. *Assessor for Dundee*, 1902, 9 S.L.T. 509; (No. 214).

[2] 1854 Act, sec. 1.

[3] 1869, 11 M. 981; (No. 66).

show that those who *de facto* were not occupiers were nevertheless *de jure* occupiers have failed.[4]

2. *Actual Possession* is one of the primary elements in occupation. A mid-superior is accordingly not an occupier,[5] but a tenant who is in actual possession of the subjects is for that reason an occupier.[6] An exclusive possession is not essential. A lodger exercises a certain amount of occupation of his rooms, but the landlord, as having control over the whole building, is the occupier for valuation purposes. So the Corporation of Glasgow, as proprietors of parks, are the occupiers thereof, as they have the control over them, while they have not exclusive possession of them, since the public are allowed to use them during the day time.[7] Licencees are entered as occupiers.[8]

Sub-tenant.—Where the tenant is not in actual possession, but has sublet the premises to one who thus possesses them, the sub-tenant, and not the tenant, is the occupier.[9] There is no objection to the insertion of the amount of the sub-rent in the occupiers' column, though this is no longer necessary, since eligibility to vote has not since 1884 depended on the payment of a certain amount of rent.[1] In Glasgow there are provisions for entering the sub-tenant in the supplementary valuation roll.[2]

Incoming and Outgoing Tenants.—In conformity with the principle that actual possession is the test of occupation, incoming tenants who get possession of everything but the crop at Whitsunday are the occupiers for that year from Whitsunday to Whitsunday, the outgoing tenant merely having a right to come upon the lands to reap the crops between Whitsunday and Martinmas.[3]

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[4] *Carron Co.* v. *Francis*, 1915 S.C. 872; 52 S.L.R. 693; 1915, 2 S.L.T. 36.

[5] *Abercromby* v *Badenoch*, (O.H.) 1909, 47 S.L.R. 18; 1909 2 S.L.T. 114.

[6] *Carron Co.* v. *Francis*, *supra*.

[7] *Glasgow Parish Council* v. *Assessor for Glasgow*, 1912 S.C. 818; (Nos. 306, 307); 49 S.L.R. 315; 1912, 1 S.L.T. 157, 171.

[8] *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1909 S.C. 664; (No. 264); 46 S.L.R. 442; 1909, 1 S.L.T. 307.

[9] *Glasgow Billiard Rooms Co.* v. *M'Call*, 1903, 5 F. 507; (No. 229); 40 S.L.R. 592; 10 S.L.T. 760. This case implicitly overrules the practice on this topic laid down in *Fraser*, 1867, 11 M. 976; (No. 52); *Hay & Co.*, 1869, 11 M. 981; (No. 70); *Duke of Richmond*, 1869, 11 M. 981; (No. 66); *Cowdenbeath Coal Co.* v. *Assessor for Fife*, 1891, 18 R. 948; (No. 121); 28 S.L.R. 622.

[1] *Glasgow Billiard Rooms Co.* v. *M'Call*, *supra*.

[2] Glasgow Corporation Order Confirmation Act, 1924, sec. 27 (1) (e) and (f).

Vacant and Unlet Property.—Where subjects are left vacant, as for instance mills out of use, then *de facto* there is no occupier, and the occupiers' column should be left blank.[4] Where, however, any use, such as putting in a caretaker, is made of the subjects by the proprietor or any one else, that person is the occupier,[5] and houses which are furnished although unoccupied are not vacant. Occupation of a part is regarded as occupation of the whole, since it would be impracticable for the assessor to investigate the amount of use made of the subjects.[6] On the other hand, where from temporary expediency or from caprice a proprietor refuses to let his property, he is regarded as the occupier thereof, and it is not the practice to leave the occupiers' column blank.

Advertising Stations.—Under the Advertising Stations (Rating) Act, 1889, an occupier of lands used for the exhibition of advertisements or for the erection of a hoarding to exhibit advertisements, but which is not otherwise occupied, is the person permitting the lands to be so used, or (if he cannot be ascertained) the owner thereof. Grave doubts, however, have been expressed as to the applicability of this Act to Scotland,[7] but even if it does apply, it in no way alters the prescribed mode of making up the valuation roll; and therefore billposters who leased the right to display a certain bill on a board in a strip of ground belonging to the proprietor were rightly entered as occupiers of the site of the board.[8] The decision in *Fry & Sons* v. *Assessor for Edinburgh*[9] is thus overruled, since it was assumed by both parties in that case that the Advertising Stations (Rating) Act applied to Scotland and altered the Valuation Acts. The occupier of the hoardings is also the billposter.[1]

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[3] *Forbes & Kellas*, 1858, 24 D. 1449; (No. 1); *Hunter*, 1859, 24 D. 1449; (No. 13); *Lord Blantyre*, 1859, 24 D. 1449; (No. 14).

[4] *Barbour*, 1878, 9 R. 1236; (No. 133).

[5] *Barbour, supra.*

[6] *Addie*, 1868, 11 M. 979; (No. 61).

[7] See *supra*, p. 19.

[8] *A. J. Wilson & Co.* v. *Assessor for Kincardineshire*, 1913 S.C. 704; (No. 213); 50 S.L.R. 240; 1913, 1 S.L.T. 29. Cf. *Beith* v. *Assessor for Glasgow*, 1904, 6 F. 504; (No. 231); 41 S.L.R. 589; 12 S.L.T. 97.

[9] 1893, 20 R. 622; (No. 140); 30 S.L.R. 612.

[1] *Beith* v. *Assessor for Glasgow, supra.*

3. *Duration of Possession.*—Originally all possession was not occupation within the meaning of the statutes. By sec. 2 of the 1854 Act the County Council or the Magistrates were given power not to insert in the valuation roll occupiers of lands and heritages separately let for a shorter period than one year or at a rent not amounting to £4 per annum. This provision, however, was repealed by the Representation of the People Act, 1884 (sec. 9 (6)), and every occupier of a separate dwelling, whether a house or part only of a house, must be entered in the roll. By the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920, owners of small dwelling-houses as therein defined (sec. 1) are made responsible for all assessments levied on occupiers. It is the practice to insert the name of the occupier as at 29th May irrespective of the period of let. Temporary or intermittent possession is no bar to being an occupier. The lessee of a theatre for a season is nevertheless an occupier.[2]

4. *Beneficial.*—Lastly, the possession, though it need not be profitable, must be valuable. As we have seen, subjects must be entered in the roll, whether they are actually profitable or not, if they possess a value. Similarly, owners of such subjects must be entered as occupiers, whether they actually get any profits from the subjects or not, and, indeed, even where no personal profit is derived from the subjects at all. This was finally decided in *Mersey Docks and Harbour Board* v. *Jones*[3] and *Adamson* v. *Clyde Navigation Trustees*,[4] both decided upon the same day. These cases overrule the prior Scottish cases on this point,[5] and have been followed ever since. Harbour owners, therefore, are occupiers of a harbour which yields a revenue, whatever be the purposes to which that revenue is applied;[6] proprietors of buildings for national or public purposes from which a revenue is derived are occupiers of that building,[7] and proprietors of lands dedicated to a public use are the occupiers thereof.[8] In

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[2] *Dante* v. *Assessor for Ayr*, 1922 S.C. 109; 59 S.L.R. 101; 1922 S.L.T. 74.

[3] 1865, 11 H.L.C. 443; 3 M. (H.L.) 102.

[4] 1860, 22 D. 606; 1863, 1 M. 974; 1865, 3 M. (H.L.) 100.

[5] *Anderson* v. *Union Canal Co.*, 1839, 1 D. 648.

[6] *Leith Docks Commissioners* v. *Miles*, 1866, 4 M. (H.L.) 14.

[7] *Greig* v. *University of Edinburgh*, 1868, 6 M. (H.L.) 97.

[8] *Glasgow Parish Council* v. *Assessor for Glasgow*, 1912 S.C. 818; (No. 306); 49 S.L.R. 315; 1912, 1 S.L.T. 157, 171, which overruled *Parish Council of Edinburgh* v. *Assessor for Edinburgh* and the *Parish Councils*

this latter case the occupier has power to acquire the lands for a public park and power to lay out a park for the recreation of the Glasgow public; there is no dedication of the parks to public use, but an absolute power in the proprietors to deal with the lands so acquired at their discretion, and even to sell them. For this reason the proprietors, and not the public, are the occupiers of these parks, for the public is a nebulous body without any capacity to " occupy " in the sense of the Valuation Acts, and has no continuity of occupation, since it is turned out at sundown.[9] In accordance with this principle, where a building site has been purchased with a view to the removal of existing buildings and the erection of other buildings, notwithstanding that all that remains at the period of valuation is a " hole in the ground," the site during the period of demolition possesses an annual value, and the owners must be entered in the roll. The site is valuable building ground capable of beneficial occupation.[1]

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of Glasgow and Govan v. *Assessor for Glasgow,* 1910 S.C. 823; (No. 269); 47 S.L.R. 414; 1910, 1 S.L.T. 290; *Parish Councils of Glasgow and Govan* v. *Assessor for Glasgow,* 1911 S.C. 988; (No. 290); 48 S.L.R. 677; 1911, 1 S.L.T. 453, in both of which the public was the occupier.

[9] Per Lord Johnston in *Glasgow Parish Council* v. *Assessor for Glasgow,* 1912 S.C. 818, at p. 838.

[1] *Assessor for Glasgow* v. *Bank of Scotland,* 1925 S.C. 548; (No. 409); 1925 S.L.T. 300; *Union Bank of Scotland* v. *Assessor for Glasgow,* 1926 S.C. 500; (No. 416); 1926 S.L.T. 163.

CHAPTER IV.

ANNUAL VALUE UNDER A LEASE.

Two methods of ascertaining the annual value of lands and heritages are laid down in sec. 6 of the 1854 Act—firstly, "the rent at which, one year with another, such lands and heritages might in their actual state be reasonably expected to let from year to year"; and, secondly, "where such lands and heritages are *bona fide* let for a yearly rent conditioned as the fair annual value thereof, without grassum or consideration other than the rent," such rent shall be deemed to be the annual value.

Subjects Let.—Under this section the assessor is bound, where possible, to employ the second of these alternative methods; it is only failing the applicability of that method that he is entitled to turn to the first. We shall accordingly begin by considering this second method. According to the Act (sec. 6), where there is a lease, the assessor is bound to treat the rent as the annual value if (1) the lease is *bona fide*, (2) if the rent represents the fair annual value without considerations other than rent, and (3) if the lease be for more than a year and less than twenty-one years (or in the case of minerals thirty-one years). From this it follows that given a lease the assessor is entitled to disregard certain questions altogether, viz.:

(a) *Improvements made or acquired by Tenant.*—These have no influence in altering the annual value—unless they are made under an obligation, or otherwise come within the category of considerations other than rent.[1] If they come within the 1895 Act, they will be entered as separate subjects;[2] if not (as, for instance, agricultural improvements), they can be disregarded, since the stipulated rent is conclusive.

(b) *Existence of Sub-leases.*—These also are quite irrelevant, if the lease represents the fair annual value of the lands. Hence, though the subjects are sublet at an increased rent in the case of minerals,[3] in the case of fields,[4] and in the case of houses,[5] the rent paid by the principal tenant is the annual value. The sub-tenants appear in the occupiers' column,[6] and " there is no harm in entering in that column the sub-rent which they pay."[7] In special circumstances, however, the existence of a sub-rent exceeding in amount the rent in the principal lease may help to show that the latter is not a fair measure of the annual value.[8] In Glasgow there are special provisions in the case of sub-leases.[9]

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[1] See *infra*, p. 59.

[2] See *supra*, p. 27.

I. Whether Agreement is Lease?

A Lease.—This brings us, therefore, to the question, when is a lease a fair measure of the annual value, and this at once raises the preliminary question of what is a lease. In order to decide this question, it is necessary to determine whether the relationship between the parties is that of landlord and tenant. This depends upon a construction of the contract between the parties, whether it is a lease or a joint adventure,[1] or an agreement of another kind.[2] Sometimes the reason for the sum paid under the agreement will settle whether or not the agreement is a lease: where, for instance, the sum is not a rent, but in the nature of compensation for injuries to fishings,[3] or as a payment to the proprietor for abstention from fishing,[4] or as a payment for compensation for non-interference.[5] The yearly sum paid by a crofter is not necessarily to be regarded as a fair rent for the purposes of the Valuation Acts.[6] Assuming that there is a lease, the next question is: does that lease conform to the requirements of the Act?

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[3] *Campbell*, 1861, 24 D. 1457; (No. 33).

[4] *Cowdenbeath Coal Co.* v. *Assessor for Fife*, 1891, 18 R. 948; (No. 121); 28 S.L.R. 622.

[5] *Hay & Co.*, 1869, 11 M. 981; (No. 70); *Lawson's Representatives* v. *Assessor for Edinburgh*, 1883, 10 R. 663; (No. 30); 20 S.L.R. 432; *Buchanan*, 1874, 4 R. 1145; (No. 111).

[6] See *supra*, p. 50.

[7] See Lord Kyllachy in *Cowdenbeath Coal Co.* v. *Assessor for Fife*, 1891, 18 R. 948, *supra*.

[8] *Bruce* v. *Assessor for Zetland*, 1882, 10 R. 34; (No. 23); 19 S.L.R. 590.

[9] Glasgow Corporation Order Confirmation Act, 1924, sec. 27 (1) (e) and (f).

[1] *See Beresford's Trustee* v. *Assessor for Argyllshire*, 1884, 11 R. 818; (No. 52); 21 S.L.R. 544.

[2] *Bo'ness Magistrates* v. *Assessor for Linlithgowshire*, 1907 S.C. 774; (No. 251); 44 S.L.R. 437; 14 S.L.T. 888.

[3] *E.g., Burgh of Renfrew*, 1868, 11 M. 979; (No. 59).

[4] *E.g., Assessor for Elginshire* v. *Duke of Richmond and Gordon*, 1905, 7 F. 424; (No. 236); 42 S.L.R. 512; 12 S.L.T. 831.

[5] *E.g., Assessor for Fife* v. *Curror*, 1888, 15 R. 632; (No. 89); 25 S.L.R. 465.

II. Whether Lease Bona Fide.

General.—The onus is upon the assessor to show that the lease is not *bona fide.*[7] Where the lease is not *bona fide*, the assessor is entitled to disregard it, and fix the annual value on some other principle (*e.g.*, the comparative principle).[8] It must be noted that after a lease expires it ceases to be a guide to the annual value,[9] and the new lease rules, though the period of the old one is not yet up.[1]

The two main grounds upon which the Court has held that a lease is not *bona fide* are (1) relationship, and (2) interest. It is, however, to be noted that these grounds are elements for consideration only when other circumstances go to show that the rent is inadequate, but of themselves are not enough to exclude the element of *bona fides.*[2] Hence, proof of near relationship and the opinion of a valuator appointed by the Valuation Committee, or even of the Valuation Committee, that the rent is inadequate is not enough to show that the lease is not *bona fide.*[3] This is made clear by a closer examination of the two grounds upon which a lease may be held to be not *bona fide.*

(1) *Relationship.*—Relationship *per se* is no ground for holding the stipulated rent to be not *bona fide.* Hence, in the absence of further evidence of lack of *bona fides*, the annual value will be the stipulated rent even in leases

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[6] *Mackay* v. *Assessor for Sutherland*, 1897, 24 R. 737; (No. 180); 34 S.L.R. 621; 4 S.L.T. 296. See also *Ferguson* v. *Assessor for Inverness-shire*, 1912 S.C. 768; (No. 291); 49 S.L.R. 158; 1911, 2 S.L.T. 505.

[7] *Anderson* v. *Assessor for Peebles*, 1921 S.C. 605; (No. 375); 58 S.L.R. 242; 1921, 1 S.L.T. 148.

[8] *Thomson* v. *Assessor for Upper Ward of Renfrewshire*, 1884, 21 S.L.R. 546; (No. 49).

[9] *Grant*, 1873, 11 M. 989; (No. 92); 10 S.L.R. 661.

[1] *Fraser*, 1867, 11 M. 976; (No. 92).

[2] *Bowman* v. *Assessor for Inverbervie*, 1900, 2 F. 607; (No. 204); *Alexander* v. *Assessor for Kirkcudbrightshire*, 1890, 17 R. 835; (No. 105); 27 S.L.R. 630; *Smith* v. *Assessor for Edinburgh*, 1922 S.C. 441; (Nos. 380 and 381); 59 S.L.R. 290; 1922 S.L.T. 131; *Rae's Trustees* v. *Assessor for Dundee*, 1923 S.C. 699; (No. 391); 60 S.L.R. 313; 1923 S.L.T. 284.

[3] *Alexander* v. *Assessor for Kirkcudbright*, *supra*; *Rae's Trustees* v. *Assessor for Dundee*, *supra*.

between father and son;[4] between brothers;[5] between uncle and nephew;[6] between father-in-law and son-in-law and uncle and nephew.[7] But though *per se* relationship is not a ground for saying that the lease is not *bona fide*, yet it is an element of importance along with other facts showing lack of *bona fides*. For example, where in a lease between husband and wife it can be shown, *inter alia*, by the principle of comparison that the rent is inadequate, then the lease will not be regarded as *bona fide*,[8] and where in a lease between a mother (as her husband's trustee) and a son (1) there is a reduction of rent upon a valuation acceded to for thirteen years, (2) the lease was granted without advertisement or skilled advice, and (3) the lease contains clauses and lacks clauses which would never have been inserted or omitted in a lease to an outsider, then such a lease is not *bona fide*.[9]

(2) *Interest and Undue Influence*.—The assessor is also entitled to disregard the stipulated rent where he can point to other reasons than relationship which have led the parties to fix a rent disproportionate to the true value of the subjects. The following are illustrations of this rule. The assessor can disregard the stipulated rent of a lease, where the tenant is one of the *pro indiviso* proprietors of the subjects, and has more than one-half of the *pro indiviso* shares, because his position gives him an undue influence in fixing the rent,[1] or where the tenant is a company in which the landlords have the controlling interest,[2] or where the tenant in the circumstances merely holds for behoof of the landlord.[3] In a lease to an old servant, where evidence was led to show

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[4] *Bruce*, 1868, 11 M. 978; (No. 58); *Reid* v. *Assessor for Orkney*, 1902, 4 F. 543; (No. 215); 39 S.L.R. 854; 9 S.L.T. 508; *Marshall* v. *Assessor for Wigtownshire*, 1929 S.C. 333; (No. 446); 1929 S.L.T. 209.

[5] *Bowman* v. *Assessor for Inverbervie*, 1900, 2 F. 607; (No. 204).

[6] *Alexander* v. *Assessor for Kirkcudbrightshire*, 1890, 17 R. 835; (No. 105); 27 S.L.R. 630.

[7] *Smith* v. *Assessor for Edinburgh; Inglis* v. *Assessor for Edinburgh*, 1922 S.C. 441; (Nos. 380 and 381); 59 S.L.R. 290; 1922 S.L.T. 131.

[8] *Thomson* v. *Assessor for Upper Ward of Renfrewshire*, 1884, 21 S.L.R. 546; (No. 49); *Jackson* v. *Assessor for Edinburgh*, 1927 S.C. 443; (No. 421); 1927 S.L.T. 144.

[9] *Assessor for Dumfriesshire* v. *Kirk's Trustees*, 1912 S.C. 780; (No. 301); 48 S.L.R. 168; 1912, 1 S.L.T. 18; cf. *Bruce* v. *Assessor for Zetland*, 1882, 10 R. 34; (No. 23); 19 S.L.R. 590.

[1] *Higgins* v. *Assessor for Lanarkshire*, 1911 S.C. 931; (No. 283); 48 S.L.R. 357; 1911, 1 S.L.T. 135.

[2] *Bell* v. *Assessor for Edinburgh*, 1904, 6 F. 501; (No. 230); 41 S.L.R. 490; 12 S.L.T. 18.

[3] *Usher* v. *Assessor for Edinburgh*, 1911 S.C. 912; 48 S.L.R. 354; 1911, 1 S.L.T. 200.

that the rent was inadequate, the assessor was also held entitled to disregard the stipulated rent.[4] So also where evidence was led that the rent had been fixed too high with the express object of getting the tenant on to the voters' roll, the assessor was entitled to disregard the rent.[5] There is, however, no ground for the assessor refusing to accept the stipulated rent (1) where the tenant is a firm consisting of the landlord and two other partners, since the landlord has a third interest and not a predominant control;[6] (2) where the tenant of a public-house himself executes any repairs required by the licensing authorities though he is not bound under the lease to do so;[7] (3) where the landlord fails to raise the rent by the amount permitted under the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920;[8] or where the landlord was unable and was unlikely to recover the standard rent plus the permitted increases under this Act which he had demanded for the tenant;[9] (4) where the lease is an oral lease only.[1]

III. Fair Annual Value.

The next requirement of the lease is that it should represent the fair annual value of the subjects. Where the assessor desires to challenge the rent, the onus is upon him to show that it does not represent the fair annual value of the subjects. He may do so on general grounds, or because the lease contains certain considerations other than the stipulated rent of the subjects.

General Grounds.—Evidence that the house is not let after open competition and between terms will entitle the assessor to disregard the stipulated rent;[2] and, again, where shootings are let at a merely nominal rent for one year owing to the difficulty of finding tenants due to the war, that rent may be disregarded as not being a fair annual value.[3] So where a railway company lets houses to its employees at a rent fixed upon a general scale for their whole system, and having no relation to the values of similar houses in the locality, the assessor is entitled to disregard the rent and fix the value by comparison.[4]

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[4] *Kerr's Trustees*, 1871, 11 M. 983; (No. 76); 44 J. 431; 9 S.L.R. 444.

[5] *M'Gregor* v. *Menzies*, 1874, 4 R. 1144; (No. 105).

[6] *M'Lachlan* v. *Assessor for Ayr*, 1897, 24 R. 734; (No. 182); 34 S.L.R. 618; 4 S.L.T. 297.

[7] *Higgins* v. *Assessor for Lanarkshire*, 1911 S.C. 931; (No. 283); 48 S.L.R. 357; 1911, 1 S.L.T. 135.

[8] *Anderson* v. *Assessor for Peebles*, 1921 S.C. 605; (No. 375); 58 S.L.R. 242; 1921, 1 S.L.T. 148.

[9] *Dickie* v. *Assessor for Dumbartonshire*, 1926 S.C. 464; (No. 413); 1926 S.L.T. 161.

[1] *Bowman* v. *Assessor for Inverbervie*, 1900, 2 F. 607; (No. 204).

[2] *Cadzow Coal Co.* v. *Assessor for Hamilton*, 1905, 7 F. 413; (No. 234); 42 S.L.R. 502; 12 S.L.T. 828.

IV. Considerations Other than Rent.

In some leases a reduction is made in the rent, which would otherwise be demanded, in exchange for obligations undertaken by the tenant. In such cases the agreed-on rent is clearly not the annual value of the subjects, and assessors must value the additional obligations undertaken. The most important classes of these obligations are noted below, but all such obligations have these qualities in common: (1) The obligation must be valuable; (2) it must not be an obligation implied by common law in the lease, but one added expressly by the parties in consideration of an altered rent; (3) it must be a binding obligation, not a mere permission to the tenant;[5] and (4) it must be connected with the heritable subject.[6]

Method of Valuation.—The proper method of valuing these considerations other than rent has been laid down to be: (1) Where the obligation is easily capable of valuation, the annual value equals the stipulated rent plus the yearly value of the considerations other than rent.[7] Where the consideration is a lump sum it should be divided equally over the years of the lease to run and the quotient added to each year's rent.[8] Where it is an annual payment, this is added to the rent.[9] This will be illustrated in the instances quoted *infra.* (2) Where the value of the additional considerations is difficult to estimate, the stipulated rent should be disregarded, and the subjects should be valued on one of the principles of valuation afterwards referred to, *e.g.*, the principle of comparison.[1] (3) Where the tenant has been obliged to do something which comes within the category of a consideration other than rent, but has done more than he is obliged to do, the value of what the tenant has voluntarily done in excess of his obligation is not a consideration other than rent, and is not considered in fixing the annual value.[2]

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[3] *Assessor for Inverness-shire* v. *Grant,* 1918 S.C. 608; (No. 348); 55 S.L.R. 236; 1918, 1 S.L.T. 139; *Assessor for Inverness-shire* v. *Macpherson's Trustees,* 1918 S.C. 615; (No. 349); 55 S.L.R. 241; 1918, 1 S.L.T. 139.

[4] *Caledonian Railway Co.* v. *Assessor for Lanarkshire,* 1896, 23 R. 691; (No. 178); 33 S.L.R. 521; 3 S.L.T. 333.

[5] *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh,* 1905, 7 F. 415; (No. 233); 42 S.L.R. 500; 12 S.L.T. 854; 1906, 8 F. 493; (No. 240); 43 S.L.R. 303; 13 S.L.T. 768.

[6] *Mitchell,* 1866, 4 M. 1142; (No. 49).

[7] *Macdonald, Fraser & Co.* v. *Assessor for Glasgow,* 1893, 20 R. 624; (No. 149); 30 S.L.R. 615.

[8] *Assessor for Lanark* v. *Selkirk,* 1887, 14 R. 579; (No. 77).

[9] *Allan* v. *Maxwell,* 1858, 20 D. 1355; (No. 5).

We shall now deal with the various obligations:

1. *Obligation to Repair.*—Where the tenant in a lease undertakes to relieve the landlord of the obligations of repair which at common law are imposed upon the landlord, that is a consideration other than rent, and the proper method of valuing the subjects is to ascertain the actual annual value to the lessor of the lessee's obligation, and then add it to the stipulated rent; but in the absence of more accurate methods of calculation the assessor is entitled to measure the value of this consideration by the difference between the *cumulo* rent paid to the landlord and the rents actually obtained from subtenants.[3] Again, where the lease provides that all alterations and repairs should be executed by the tenant and thereupon become the landlord's property without compensation to the tenant, there is a consideration other than rent.[4] An obligation to paper and paint is also a consideration other than rent.[5] In a lease of mills an obligation to uphold machinery is perhaps not a consideration other than rent,[6] and if in a lease of houses the tenant undertakes to execute all necessary repairs, this is probably just an ordinary clause of a lease, and the stipulated rent must be taken.[7] Power to make repairs and to deduct the amount from the agreed rent is not a consideration other than rent.[8]

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[1] *Clark* v. *Assessor for Middle Ward of Lanarkshire*, 1901, 3 F. 455; (No. 208); 38 S.L.R. 489.

[2] *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh*, 1906, 8 F. 493, *supra.*

[3] *Forrest's Factor* v. *Assessor for Lanarkshire*, 1920 S.C. 496; (No. 364); 57 S.L.R. 563; 1920, 2 S.L.T. 194.

[4] *Mackay & Co., Ltd.* v. *Assessor for Leith*, 1911 S.C. 935; 48 S.L.R. 367; 1911, 1 S.L.T. 145.

[5] *Ford*, 1877; (No. 126).

[6] *Lowson's Judicial Factor* v. *Assessor for Arbroath*, 1900, 2 F. 608; (No. 205); 7 S.L.T. 446.

[7] *Morrison's Trustees* v. *Assessor for Coatbridge*, 1893, 20 R. 616; (No. 150); 30 S.L.R. 610.

[8] *Bowman* v. *Assessor for Inverbervie*, 1900, 2 F. 607; (No. 204).

2. *Obligation to Alter.*—The mere fact that alterations have been made is no reason for adding any sum to the stipulated rent. The alterations only constitute a consideration other than rent where they increase the letting value of the subjects.[9] An obligation to fit up premises which should become the landlord's property at the termination of the lease without compensation is a consideration other than rent.[1] Where, however, the tenant spends more than he was obliged to do on the alterations, an allowance will be made.[2]

The proper method of calculating the value of the obligation to alter is to add to the stipulated rent the estimated cost of the alterations, spreading this latter sum over the years which the lease has to run.[3] But where the alterations are incapable of being estimated in money, the stipulated rent should be disregarded and the annual value fixed according to the appropriate method.[4]

3. *Obligation to Build.*—An obligation in a lease to expend a sum of money on buildings is a consideration other than rent;[5] so also is an obligation to erect buildings,[6] an obligation to complete buildings,[7] or an agreement to rebuild a farmhouse which the landlord was to take over at a valuation on the termination of the lease.[8] An obligation, however, to keep ground properly fenced, being merely an instance of the common law obligation to keep the subjects in repair, is not a consideration other than rent,[9] and an obligation to erect a circus and remove it at the termination of the

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[9] *Peggie* v. *Assessor for Kirkcaldy*, 1901, 3 F. 462; (No. 209); 38 S.L.R. 492; 8 S.L.T. 409; contrast *Assessor for Greenock* v. *Bullen*, 1901, 3 F. 452; (No. 211); 38 S.L.R. 499; 8 S.L.T. 410.

[1] *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh*, 1905, 7 F. 415; (No. 233); 42 S.L.R. 500; 12 S.L.T. 854; cf. *Angus* v. *Assessor for Lanarkshire*, 1905, 7 F. 411; 42 S.L.R. 499; 12 S.L.T. 767.

[2] *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh*, 1906, 8 F. 493; (No. 240); 43 S.L.R. 303; 13 S.L.T. 768.

[3] *Shiel* v. *Assessor for Hawick*, 1898, 25 R. 592; (No. 186); 35 S.L.R. 665; 5 S.L.T. 331; *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh*, 1905, 7 F. 415, *supra*.

[4] *Angus* v. *Assessor for Lanarkshire*, 1905, 7 F. 411, *supra*.

[5] *M'Culloch*, 1863, 1 M. 1196; (No. 36).

[6] *Patrick* v. *Assessor for Renfrewshire*, 1890, 17 R. 852; (No. 114); 27 S.L.R. 610.

[7] *Clark* v. *Assessor for Middle Ward of Lanarkshire*, 1901, 3 F. 455; (No. 208); 38 S.L.R. 489.

[8] *Davidson v. Assessor for Peebleshire*, 1905, 7 F. 422; (No. 232); 42 S.L.R. 504; 12 S.L.T. 829.

[9] *North British Railway Co.* v. *Assessor for Glasgow*, 1890, 17 R. 846; (No. 108); 27 S.L.R. 608.

lease of the ground is only a security for rent, and not a consideration other than rent.[1]

Where the tenant has a power under the lease to erect buildings, and is not under an express obligation, the question is more difficult. The mere use of the word "power" will not exclude the Court from investigating into the reality of the transaction, in order to decide whether it is a mere power given to the tenant from which no benefit is to accrue to the landlord, or whether, though no express obligation is imposed, yet the additions are contemplated in the lease and the rent fixed accordingly.[2] Hence a mere power to erect and remove a building is not a consideration other than rent;[3] and a power to erect buildings, with liberty to the landlord at the expiry of the lease to acquire the buildings at a valuation or to insist on the tenants removing, is in the same position.[4] But where the tenant has power to erect buildings, and the buildings must be erected within a certain period and of a certain value, and are to be the property of the landlord, this is a consideration other than rent.[5] Where subjects are let as a shipbuilding yard, with power to make necessary erections and an obligation to enclose, there is a consideration other than rent.[6] The tenant may voluntarily erect buildings. In these circumstances they fall to be disregarded and the stipulated rent taken.[7]

When the assessor has determined that the erection of the buildings forms a consideration other than rent, his next question is how to value them. In the ordinary case, where the value of the buildings is not agreed upon in the lease, and the amount which the tenant is bound to expend is difficult to estimate in money value, the assessor is entitled to disregard the agreed rent and fix the annual value by comparison with similar subjects in the neighbourhood.[8] Even where in the lease the tenant is to receive a specific sum of money in consideration of his having built a house, the assessor is not entitled to add to the rent 5 per cent. of the sum the tenant was to receive and regard the total as the annual value. The proper course is to revalue the subjects as a whole irrespective of the lease.[9] In two cases, however, where the assessor has taken as the annual value the agreed rent plus interest upon sums due to the tenant by the landlord for buildings, but where payment was postponed till the end of the lease, the Court has upheld such a method of valuation.[1] Where the consideration was the cost of erecting the premises, the proper method of valuation was to divide the sum by the number of years in the lease (inclusive of the period under option to renew) and add the quotient to the stipulated rent.[2]

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[1] *Martin* v. *Assessor for Leith*, 1889, 16 R. 799; (No. 95); 26 S.L.R. 531; cf. *Magistrates of Dundee* v. *Assessor for Dundee*, 1886, 23 S.L.R. 611; (No. 75).

[2] See Lord Fraser's opinion in *Dundee Harbour Trustees* v. *Assessor for Dundee*, 1886, 13 R. 829; (No. 73); 23 S.L.R. 607; *Liverpool, &c., Tea Co.* v. *Assessor for Edinburgh*, 1905, 7 F. 415, *supra*.

[3] *Patrick* v. *Assessor for Renfrewshire, supra; Macdonald, Fraser & Co.* v. *Assessor for Glasgow*, 1893, 20 R. 624, *supra*, and cases therein cited at 625.

[4] *North British Railway Co.* v. *Assessor for Glasgow, supra.*

[5] *Gosnell* v. *Assessor for Edinburgh*, 1885, 12 R. 571; (No. 55); 22 S.L.R. 367.

[6] *Dundee Harbour Trustees* v. *Assessor for Dundee, supra;* cf. *Prestongrange Coal and Firebrick Co.* v. *Assessor for Haddingtonshire*, 1887, 14 R. 589; (No. 81); 24 S.L.R. 452.

[7] *Morrison's Trustees* v. *Assessor for Coatbridge*, 1893, 20 R. 616; (No. 150); 30 S.L.R. 610.

4. *Obligation to pay Interest on Landlord's Expenditure.*—This is clearly a consideration other than rent, and the assessor in fixing the annual value must add the yearly interest to the stipulated rent, or, if the obligation is to pay a lump sum, must spread this sum over the years of the lease yet to run.[3] All obligations to pay interest on money advanced by the landlord, whether under an agreement entered into during the lease or in the terms of the lease itself, must be taken into account,[4] but only where the money has been expended upon permanent improvements the benefits of which would accrue to the heritable subject.[5] Hence, expenditure by a landlord on fences, drains, and houses must be taken into account, but not that upon lime.[6] In this latter case sheep drains were also held

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[8] *Clark* v. *Assessor for Middle Ward of Lanarkshire, supra; Davidson* v. *Assessor for Peebleshire, supra; Angus* v. *Assessor for Lanarkshire*, 1905, 7 F. 411; 42 S.L.R. 499; 12 S.L.T. 767.

[9] *Grant*, 1859, 24 D. 1450; *Duke of Montrose*, 1863, 1 M. 1197; (No. 37); *Gosnell* v. *Assessor for Edinburgh*, 1885, 12 R. 571; (No. 55); 22 S.L.R. 367.

[1] *Skene*, 1867, 11 M. 976; (No. 53); *Duke of Fife* v. *Assessor for Elginshire*, 1891, 18 R. 941; (No. 119); 28 S.L.R. 625.

[2] *Heritable Securities and Mortgage Investment Association* v. *Assessor for Glasgow*, 1928 S.C. 401; (No. 432); 1928 S.L.T. 210.

[3] *Lockhart*, 1858, 24 D. 1451; (No. 8); *Home*, 1858, 24 D. 1451; (No. 9).

[4] *Allan* v. *Maxwell*, 1858, 20 D. 1355; (No. 5).

[5] *Dunlop*, 1858, 20 D. 1355; (No. 6).

[6] *Dunlop, supra; Hamilton* v. *Assessor for Zetland*, 1881, 9 R. 1245; (No. 13).

to be permanent improvements. Buildings, fences, drainage, and machinery are all permanent improvements.[7] Also where money is borrowed not from the landlord, but from third parties, for expenditure in permanently improving the subjects, interest upon this must be included with the rent.[8]

5. *Obligations in Security.*—These are not considerations other than rent, for, although the chances of recovering the rent are greater, no increase in value of the subjects is made thereby.[9]

6. *Obligation to Insure.*—Where under the lease the tenant is taken bound in addition to paying the rent to insure the subjects, such insurance is a consideration other than rent, and falls to be taken into account.[1] In order to take this obligation into account in fixing the annual value of the subjects the assessor is entitled to add the premium under the insurance policy to the stipulated rent.[2]

7. *Payment for Goodwill.*—Payments for goodwill by the tenant to the landlord, so far as they pertain to the heritable subject, clearly form a consideration other than rent, and fall to be taken account of in fixing the annual value. Such part only of the goodwill as is paid for the occupation of the premises must be taken into account. Goodwill for personal considerations has no bearing on the annual value of the premises.[3] The assessor must first decide what proportion of the goodwill is heritable.[4] The ordinary rule in cases where a portion of the goodwill is heritable is to divide the amount paid for goodwill by the number of years in the lease and add the quotient to the stipulated rent.[5] If the goodwill is paid for by an annual sum, this is just added to

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[7] *Lockhart,* and *Home, supra.*

[8] *Lockhart, supra;* cf. *Anderson* v. *Union Canal Co.*, 1839, 1 D. 648.

[9] *Martin* v. *Assessor for Leith,* 1889, 16 R. 799; (No. 95); 26 S.L.R. 531.

[1] See *Walker,* 1861, 24 D. 1453; (No. 28); *Patrick* v. *Assessor for Renfrewshire,* 1890, 17 R. 852; (No. 114); 27 S.L.R. 610.

[2] *Cowdenbeath Coal Co.* v. *Assessor for Fife,* 1891, 18 R. 944; (No. 120); 28 S.L.R. 622; *Usher* v. *Assessor for Roxburghshire,* 1915 S.C. 768; (No. 327); 52 S.L.R. 119; 1914, 2 S.L.T. 426; *Cunninghame* v. *Assessor for Lanarkshire,* 1886, 23 S.L.R. 605; (No. 69).

[3] *Patrick* v. *Assessor for Renfrewshire,* 1890, 17 R. 852, *supra.*

[4] *Assessor for Edinburgh* v. *Caira,* 1928 S.C. 398; (No. 431); 1928 S.L.T. 280.

[5] *Drummond* v. *Assessor for Leith,* 1886, 13 R. 540; (No. 66); 23 S.L.R. 385.

the stipulated rent.[6] If it is paid in a lump sum it is distributed equally over the years of the lease.[7]

It is to be noted that payments by the incoming tenant to the outgoing tenant are not assessable, since they have no connection with the relation between landlord and tenant.[8] Where, however, in consideration of accepting a new tenant the landlord receives some payment from the outgoing tenant, then this sum falls to be taken into consideration.[9] Also where the tenant pays a sum for goodwill, and the landlord binds himself not to carry on a rival business, this obligation by the landlord as not relating to the heritable subject falls to be valued and deducted from the sum paid for goodwill.[10]

8. *Licensed Premises.*—In many cases the goodwill does not effeir solely to the heritable subject. This is especially true in questions concerning public-houses where payments for goodwill may cover (1) the benefit of the existing licence to the premises, (2) the habit of customers to resort there with the trade which thereby ensues, (3) the seller's consent to a transfer of the licence to the payer of the money for goodwill, (4) the absence of competition at the next Licensing Court by the former holder of the licence, (5) a right to use the name of the public-house and the introduction to customers. The first two have some relation to rent, but the remainder do not affect the annual value of the premises.[1] This case definitely fixes that not all goodwill is heritable. The old rule of taking half of the goodwill as effeiring to the premises was neglected in favour of leaving it as a question of fact for the assessor in each case.[2] Where, as in questions relating to public-

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[6] *Glasgow Iron Co.*, 1873, 11 M. 989; (No. 90); 10 S.L.R. 661.

[7] *Liverpool, China, and India Tea Co.* v. *Assessor for Edinburgh*, 1906, 8 F. 493; (No. 240); 43 S.L.R. 303; 13 S.L.T. 768.

[8] *Assessor for Kilmarnock* v. *Allan*, 1887, 14 R. 581; (No. 78); *Nicolson* v. *Assessor for Port-Glasgow*, 1886, 23 S.L.R. 603; (No. 70); but cf. *Livingston* v. *Assessor for Paisley*, 1909, 46 S.L.R. 433; 1909, 1 S.L.T. 230.

[9] *Paton* v. *Assessor for Hamilton*, 1899, 1 F. 588; (No. 198); 36 S.L.R. 601; 6 S.L.T. 326; *Assessor for Greenock* v. *Bullen*, 1901, 3 F. 452; (No. 211); 38 S.L.R. 499; 8 S.L.T. 410.

[10] *Hughes* v. *Assessor for Stirling*, 1892, 19 R. 840; (No. 133); 29 S.L.R. 625; *Assessor for Lanark* v. *Selkirk*, 1887, 14 R. 579; (No. 77).

[1] *Hughes* v. *Assessor for Stirling*, 1892, 19 R. 840, *supra*, Lord Kyllachy at 845 and 846.

[2] *Wilson* v. *Assessor for Renfrewshire*, 1884, 21 S.L.R. 545; (No. 51); and *Drummond* v. *Assessor for Leith*, 1886, 13 R. 540; (No. 66); 23 S.L.R. 385; are departed from to some extent, and *Assessor for Lanark* v. *Selkirk*, 1887, 14 R. 579; (No. 77), is rejected; cf. *Cousin* v. *Assessor for Edinburgh*, 1928 S.C. 392; (No. 430); 1928 S.L.T. 159.

houses, goodwill covers more than items related to the heritage itself, the rule is that the assessor is justified in halving the payment for goodwill, attributing one-half to the heritage and spreading the half over the years of the lease, and adding the result so found to the stipulated rent.[3] This rule, however, is by no means inflexible.[4] The stipulated rent plus one-half of the goodwill will probably be a fair estimate of the annual value of the premises if the transaction fixing these two is of recent date.[5] But where the transaction is a year or two old the circumstances may have changed, and the annual value may therefore have altered. It is then also necessary to take into consideration the annual value of similar public-houses in the neighbourhood.[6] Where, however, a landlord of licensed premises in connection with which a sum for goodwill has been paid takes advantage of a break to raise the rent, but in other respects confirms the lease for the remainder of the originally agreed-on period, half the sum paid as goodwill along with the increased rent may still be taken as determining the value of the premises.[7]

9. *Tied Houses.*—In these cases the tenant, being deprived of the advantage of the open market, is allowed therefor a reduction in his rent. This reduction is clearly a consideration other than rent, and requires to be taken into account in fixing the annual value. The proper method of taking this consideration into account is to value it and add it to the stipulated rent,[8] or to revalue the whole premises by comparison.[9] "Tied houses" mean those houses which are bound to take their supplies of liquor from certain firms only.[1]

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[3] *Drummond* v. *Assessor for Leith, supra; Mark* v. *Assessor for Edinburgh,* 1911 S.C. 974; (No. 278); 48 S.L.R. 379; 1911, 1 S.L.T. 241; *Paton* v. *Assessor for Hamilton,* 1899, 1 F. 588; (No. 198); 36 S.L.R. 601; 6 S.L.T. 326.

[4] *Mark* v. *Assessor for Edinburgh, supra.*

[5] *Mark* v. *Assessor for Edinburgh, supra.*

[6] *Mark* v. *Assessor for Edinburgh, supra; Paton* v. *Assessor for Hamilton, supra; Annan* v. *Assessor for Leith,* 1899, 1 F. 586; (No. 197); 36 S.L.R. 600; *Crawford* v. *Assessor for Haddington,* 1896, 23 R. 685; (No. 175); 3 S.L.T. 278; *Cousin* v. *Assessor for Edinburgh,* 1928 S.C. 392; (No. 430); 1928 S.L.T. 159.

[7] *Ormston* v. *Assessor for Greenock,* 1906, 8 F. 497; (No. 243); 43 S.L.R. 318; 13 S.L.T. 766; *M'Farlane & Dailly* v. *Assessor for Dundee,* 1891, 18 R. 939; (No. 122); 28 S.L.R. 621.

[8] *Jerdan,* 1876, 4 R. 1148; (No. 118).

[9] *Assessor for Peterhead* v. *Milne,* 1890, 17 R. 851; (No. 109); 27 S.L.R. 611; *Annan* v. *Assessor for Leith,* 1899, 1 F. 586; (No. 197); 36 S.L.R. 600.

[1] *Jerdan, supra.*

A house is still tied if the obligation is conditional on the goods remaining of good quality, supplied at the most favourable current prices and on the usual trade terms.[2] A house, however, is not tied where there is no obligation, though in fact the goods are all supplied by one firm.[3]

Where the landlord is bound under an agreement to advance funds to the tenant to purchase the goodwill, the tenant holds merely for the landlord, and the stipulated rent accordingly falls to be disregarded,[4] though it may be that, where such financial assistance is embodied in a transaction separate from and independent of the lease, the stipulated rent is binding on the assessor.[5]

10. *Miscellaneous.*—There are given here certain obligations which appear in leases, but do not fall within any of the preceding categories; the reported cases show how such obligations are to be treated by the assessor.

(i) *Obligations to Remove.*—Power to the landlord to resume possession at any term of Whitsunday without compensation is a consideration other than rent, and must therefore be taken into account.[6] Similarly, where the tenant is bound to remove at the will of the landlord, the stipulated rent falls to be disregarded.[7] Where the tenant was bound to remove at any time on one month's notice the lease fell to be disregarded altogether,[8] though when the lease is terminable on three months' notice the same may not be true.[9] The question in each case is whether the lease is to be regarded as a yearly lease in terms of the statute.[1]

(ii) *Renunciation of Right to claim under Agricultural*

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[2] *Annan* v. *Assessor for Leith, supra.*

[3] *Usher & Son* v. *Assessor for Edinburgh,* 1906, 8 F. 488; 43 S.L.R. 310; 13 S.L.T. 761; *Mackay & Co.* v. *Assessor for Edinburgh,* 1907 S.C. 766; 44 S.L.R. 435; 14 S.L.T. 817; *Mackay & Co.* v. *Assessor for Edinburgh,* 1909, 46 S.L.R. 430; 1909, 1 S.L.T. 225.

[4] *Usher* v. *Assessor for Edinburgh,* 1911 S.C. 912; 48 S.L.R. 354; 1911, 1 S.L.T. 200.

[5] *Mackay & Co.* v. *Assessor for Leith,* 1911 S.C. 935; 48 S.L.R. 367; 1911, 1 S.L.T. 145.

[6] *North British Railway Co.* v. *Assessor for Leith,* 1884, 11 R. 558; (No. 41); 21 S.L.R. 398.

[7] *Mackay & Co.* v. *Assessor for Leith,* 1911 S.C. 935; 48 S.L.R. 367; 1911, 1 S.L.T. 145.

[8] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock,* 1898, 25 R. 1229; (No. 192); 35 S.L.R. 943; 6 S.L.T. 148.

[9] *Lowson's Judicial Factor* v. *Assessor for Arbroath,* 1900, 2 F. 608; (No. 205); 7 S.L.T. 466.

[1] See *infra,* p. 72.

Holdings Act, 1908.—Such a renunciation is a consideration other than rent, and as implying that the parties must have thought that it had some value displaces the stipulated rent as fixing the annual value.[2]

(iii) *Payment by Incoming Tenant to Outgoing Tenant.*—Such a payment made for meliorations due by the landlord to the outgoing tenant, and an obligation on the landlord to repay the incoming tenant at the termination of the new lease, constitutes a consideration other than rent.[3]

(iv) *Obligation to pay Landlord's Rates and Taxes.*—If the tenant is taken bound to pay the landlord's rates and taxes, this is a consideration other than rent.

Deductions from Rent.

So far we have been dealing with obligations imposed on the tenant in the landlord's favour in addition to the obligation to pay rent, which must be valued and, where possible, added to the rent. On the other hand, the rent may cover payments to the landlord for something other than the lands and heritages leased to the tenant, and to ascertain the annual value of the lands it is necessary to deduct these extraneous elements. As in the obligations imposed on the tenant, so here the principle of valuation is, where possible, to value the non-assessable subjects and deduct these from the agreed rent; and where valuation of such subjects is impossible to revalue the lands and heritages irrespective of the agreed rent.

(a) *Furniture.*—The annual value of furniture in the lease of furnished subjects must be deducted from the rent.[4] The method of arriving at the value of the furniture may be by comparison,[5] and where comparison is impossible, by taking a certain rate of interest on the capital value of the furniture and deducting this from the stipulated rent,[6] but the usual custom is to treat one-half of the rent as representing rent for furniture and to take the annual value of the lands and heritages as one-half of the stipulated rent.[7] Furniture, it is to be noted, includes all fixtures.[8]

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[2] *Hutcheon* v. *Assessor for Peterhead,* 1891 V.A.; (No. 126); *Assessor for Dumfriesshire* v. *Kirk's Trustees,* 1912 S.C. 780; (No. 301); 49 S.L.R. 168; 1912, 1 S.L.T. 18.

[3] *Duke of Fife* v. *Assessor for Elginshire,* 1891, 18 R. 941; (No. 119); 28 S.L.R. 625.

[4] *Fraser,* 1858, 24 D. 1452; *Lord Middleton* v. *Assessor for Ross-shire,* 1882, 10 R. 28; (No. 21); 19 S.L.R. 564.

[5] *Skinner,* 1879, 9 R. 1237; (No. 153).

[6] *Duke of Richmond,* 1868, 11 M. 978; (No. 56).

(b) *Servant's Labour, &c.*—Where, in addition to the subjects, the tenant also gets the use of the proprietor's servant, a deduction also falls to be made from the rent, as in the case of furniture. The onus of proving the extent of these services is upon the party claiming the deduction.[9] Hence the value of a deer forest and mansion-house is the sum paid by the tenant under deduction of establishment charges paid by the proprietor during the year, where under the lease the tenant has the use of the proprietor's establishment of horses, furniture, and the labour of the outdoor and indoor servants, all of which were not in excess of the tenant's requirements.[1] Similarly, an obligation by the landlord to upkeep the gardens for the tenant,[2] and the right in the tenant to use the garden produce[3] is a good deduction from the rent. But where the establishment charges are permanent outlays,[4] or where the services supplied are required for other parts of the estate than those comprised in the lease, and there is no evidence of the extent to which the services apply to the let part,[5] the outlays so expended are not deducted from the stipulated rent.

Provisions for Reductions in Rent in certain events.—Reductions in rent can only be taken into account where the landlord has bound himself to grant the reduction.[6] But even where the landlord has bound himself to grant the reduction, the assessor need not take it into account where the reduction is taken to be an allowance in respect of expenditure by the tenant on permanent improvement, *e.g.*, drainage,[7] or even where there is nothing in the terms of the lease inconsistent with the abatement being due to tenant's expenditure on permanent improvements.[8] The reduction in the rent, however, is to be taken into account where it is stated in the lease or agreement to be due to the bad condition of the farm,[9] or the low price of agricultural produce.[1] In this event the rent so reduced is the annual value.

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[7] *Maxwell Scott* v. *Assessor for Roxburghshire*, 1890, 17 R. 833; (No. 103); 27 S.L.R. 606.

[8] *Cowans* v. *Assessor for Forfarshire*, 1910 S.C. 810; (No. 272); 47 S.L.R. 382; 1910, 1 S.L.T. 263.

[9] *Colville's Trustees* v. *Assessor for Fife*, 1894, 21 R. 799; (No. 154); 31 S.L.R. 470; 1 S.L.T. 533.

[1] *Lord Middleton* v. *Assessor for Ross-shire, supra.*

[2] *Duke of Richmond*, 1868, 11 M. 978; (No. 57).

[3] *Colville's Trustees* v. *Assessor for Fife, supra.*

[4] *Forbes*, 1873, 11 M. 990; (No. 95); 45 J. 585; 10 S.L.R. 662.

[5] *Colville's Trustees* v. *Assessor for Fife, supra.*

[6] *Menzies* v. *Assessor for Perthshire*, 1889, 16 R. 805; (No. 101); 26 S.L.R. 688.

[7] *Udny*, 1872, 11 M. 987; (No. 86); 44 J. 432; 9 S.L.R. 446.

[8] *Kinloch*, 1876, 4 R. 1148; (No. 119); cf. *Hay*, 1861, 24 D. 1451.

Obligations undertaken by Landlord.—Similarly, where the landlord leases a farm and binds himself to do something for the tenant which at common law he is not obliged to do, the rent is fixed with this in view; to arrive at the true annual value the value of this obligation must therefore be deducted. Hence, where a lease provides that buildings and fences are to be repaired at mutual expense, the assessor must deduct the landlord's share of this expense from the rent.[2] For purposes of convenience the expenditure by the landlord in one year is treated as a proper deduction from the next year's rent for valuation purposes,[3] and where the landlord does not perform his obligation a deduction of one year's interest will be made on the following year's rent.[4] Where the landlord undertakes to pay the tenant's rates these form a good deduction from the rent.

Shootings and Fishings.—No case has yet arisen where shootings or fishings have been treated as let for less than a year. Where the attempt has been made the lease has been held to be for a year.[5] The method of valuation is to take the seasonal rent less the usual deductions. The assessor is not bound to take an average rent over a period of years, but may take the rent obtained for the previous year.[6]

Salmon Fishings.—Where there is nothing to suggest that the rent at which these are let does not represent their fair annual value, then they are entered in the roll at this rent.

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[9] *Kinloch, supra; Buchan Hepburn*, 1876, 4 R. 1148; (No. 120).

[1] *Maxwell*, 1881, 9 R. 1243; (No. 3).

[2] *Macpherson* v. *Assessor for Berwickshire*, 1895, 22 R. 594; (No. 169); 32 S.L.R. 434; 2 S.L.T. 569; cf. *Maitland* v. *Assessor for Midlothian*, 1893, 20 R. 628; (No. 143); 30 S.L.R. 618; 2 S.L.T. 569.

[3] *Miller's Trustees* v. *Assessor for Berwickshire*, 1911 S.C. 908; (No. 282); 48 S.L.R. 352; 1911, 1 S.L.T. 199.

[4] *Maitland* v. *Assessor for Midlothian, supra.* See *Harvie* v. *Assessor for Upper Ward of Lanarkshire*, 1893, 20 R. 630; (No. 142); 30 S.L.R. 613; 1894, 21 R. 803; (No. 157); 31 S.L.R. 731; *Duke of Hamilton's Trustees* v. *Assessor for Lanarkshire*, 1918 S.C. 624; (No. 355); 55 S.L.R. 248; 1918, 1 S.L.T. 172; *Anstruther's Trustees* v. *Assessor for Lanarkshire*, 1927 S.C. 435; (No. 424); 1927 S.L.T. 150.

[5] *Lord Middleton* v. *Assessor for Ross-shire*, 1882, 10 R. 28, *supra.*

[6] *M'Kenzie* v. *Assessor for Aberdeenshire*, 1924 S.C. 635; (No. 402); 61 S.L.R. 243; 1924 S.L.T. 267.

But where fishing by net on the tidal waters was discontinued in the interests of the proprietors on the upper reaches, the rent at which the rod fishing—which was practically valueless—was let was not the fair annual value, and the fishings were entered in the roll at the rent at which they might reasonably be expected to let to a person exercising the full rights of salmon fishing in the ordinary way.[7] Where, however, a rent is paid for angling on the understanding that the net fishing will not be worked, that rent must be subjected to a deduction in respect of the net fishings which are separately entered in the roll. That deduction is not necessarily the full figure at which the net fishings are entered in the roll.[8] Probably proprietors, who incur expense in removing nets from lower fishings, are entitled to treat such expense as part of the expense incurred by them in obtaining the rents for their fishings;[9] and proprietors are entitled to deduct wages of watchers and expenditure in connection with the services of persons at the dams to regulate the flow of water.[1] A sum paid to a lower proprietor in consideration of which he refrained from netting forms a permissible deduction in valuing the fishings of the upper proprietors.[2]

Outgoing and Incoming Tenants.—The valuation roll is made up as from Whitsunday to Whitsunday. If the agricultural year is taken as Martinmas to Martinmas, the valuation roll will include the last half of one crop and the first half of another. Where the new tenant has come in at Martinmas, the amount of rent for the two half-years may be different. In this case the mean is to be taken for valuation purposes.[3]

Lease for more than Twenty-one Years.—In terms of sec. 6 of the 1854 Act, where the lease is for more than twenty-one years from the date of entry (and in the case of minerals more than thirty-one years), the annual value is to be ascertained irrespective of the amount of rent payable under the lease. For the purposes of the Act the duration of a lease is its fixed duration. Hence a lease for fourteen years and the life of the tenant is not a lease for more than twenty-one years.[4] But the fact that there is a provision for breaking the lease still enables the fixed duration to be calculated at the full period.[5]

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[7] *Dee Salmon Fisheries Co.* v. *Assessor for Aberdeen*, 1915 S.C. 790; (No. 337); 52 S.L.R. 178; 1914, 2 S.L.T. 457; cf. *Assessor for Elginshire* v. *Duke of Richmond and Gordon*, 1905, 7 F. 424; (No. 236); 42 S.L.R. 512; 12 S.L.T. 831.

[8] *M'Corquodale* v. *Assessor for Sutherlandshire*, 1924 S.C. 626; (No. 399); 61 S.L.R. 235; 1924 S.L.T. 185.

[9] *Dee Salmon Fisheries Co.* v. *Assessor for Aberdeen*, 1915 S.C. 790, *supra*, Lord Salvesen at p. 796.

[1] *M'Corquodale* v. *Assessor for Sutherlandshire*, *supra*.

[2] *Assessor for Morayshire* v. *Seafield Trustees*, 1925 S.C. 534; (No. 404); 1925 S.L.T. 306.

[3] *Duke of Richmond*, 1861, 24 D. 1450; (No. 21); cf. *Hunter*, 1859, 24 D. 1449; (No. 13); *Hunter*, 1859, 24 D. 1450; (No. 23); *Lord Blantyre*, 1859, 24 D. 1449; (No. 14); *Lord Blantyre*, 1865, 4 M. 1135; (No. 42).

Where minerals are let for thirty-one years along with other subjects, and there is one rent covering the whole concern, then no separate valuation should be made for these other subjects (for example, houses,[6] or harbours[7]); the *cumulo* rent paid is the annual value. Where, however, the subjects cannot be brought under the mineral lease, they must be separately entered and valued independently of the rent under the lease.

Leases for less than a Year.—By sec. 6 of the 1854 Act the rent is only conclusive if it is a yearly rent. Hence, power to resume subjects at any term of Whitsunday without compensation,[8] an obligation on the tenant to remove at the will of the landlord,[9] or on one month's notice[1] all imply that the lease is not a yearly lease, and the rent therefore falls to be disregarded. The Courts, however, have refused to go further than this, and the question has been reserved where the breaks in the lease were at periods short of a year,[2] and on three months' notice.[3]

Grass Parks.—Where such parks are let for less than a year, the practice was to enter them as occupied by the proprietor at the rent at which they might reasonably be expected to let for ordinary agricultural purposes, whether such annual value is higher[4] or lower[5] than the actual grazing rent. The case of *Berwick* v. *Assessor for Fife*[6] has cast doubts upon the validity of this rule, and in *Duffus* v. *Assessor for Aberdeenshire*[7] the Court fixed the rent obtained for the grazing season as the best criterion for their annual value. Grass parks are now entered at the seasonal rents less the usual deductions.[8] But the expenses of roup and discount paid by the landlord to the tenant for prepayment of rent are not good deductions.[9] No special deduction falls to be made for expenditure recently incurred in converting farm into pasture,[1] and a deduction in respect of seeds and manure in laying down the grass is illegitimate.[2]

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[4] *Robertson*, 1861, 24 D. 1452; (No. 35).

[5] *Lowson's Judicial Factor* v. *Assessor for Arbroath*, 1900, 2 F. 608; (No. 205); 7 S.L.T. 466; *Bishop v. Assessor for Paisley*, 1910 S.C. 821; (No. 266); 47 S.L.R. 372; 1910, 1 S.L.T. 158.

[6] *Leadhills Silver, &c., Co.* v. *Assessor for Lanarkshire*, 1886, 13 R. 827; (No. 68); 23 S.L.R. 611.

[7] *Prestongrange Coal, &c., Co.* v. *Assessor for Haddingtonshire*, 1887, 14 R. 589; (No. 81); 24 S.L.R. 452.

[8] *North British Railway* v. *Assessor for Leith*, 1884, 11 R. 558; (No. 41); 21 S.L.R. 398.

[9] *Mackay & Co.* v. *Assessor for Leith*, 1911 S.C. 935; 48 S.L.R. 367; 1911, 1 S.L.T. 145.

[1] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock*, 1898, 25 R. 1229; (No. 192); 35 S.L.R. 948; 6 S.L.T. 148.

[2] *Caledonian Railway Co.* v. *Assessor for Lanarkshire*, 1896, 23 R. 691; (No. 178); 33 S.L.R. 521; 3 S.L.T. 333.

[3] *Lowson's Judicial Factor* v. *Assessor for Arbroath*, 1900, 2 F. 608; (No. 205); 7 S.L.T. 466.

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[4] *Ker's Trustees*, 1878, 9 R. 1236; (No. 131).

[5] *Allan* v. *Maitland and Campbell*, 1858, 20 D. 1356; and *Dickson*, 1858, unreported.

[6] 1888, 15 R. 629; (No. 88); 25 S.L.R. 460.

[7] 1919 S.C. 484; (No. 358); 56 S.L.R. 115; 1919, 1 S.L.T. 59.

[8] *Assessor for Morayshire* v. *Bruce*, 1924 S.C. 622; (No. 397); 61 S.L.R. 233; 1924 S.L.T. 182.

[9] *Lockhart* v. *Assessor for Lanarkshire*, 1922 S.C. 450; (No. 382); 59 S.L.R. 295; 1922 S.L.T. 212.

[1] *Duffus* v. *Assessor for Aberdeenshire; Assessor for Morayshire* v. *Bruce, supra.*

[2] *Assessor for Aberdeenshire* v. *Cordiner's Judicial Factor*, 1925 S.C. 540; (No. 405); 1925 S.L.T. 297.

CHAPTER V.

PRINCIPLES OF VALUATION APPLIED WHERE THERE IS NO LEASE.

General.—So far we have only been considering the method of finding the annual value where there was a lease, and we have seen what modifications must be made upon the rent fixed in the lease. In many cases, however, the assessor has to ascertain the annual value of subjects not leased at all, or where, as we have seen, owing to circumstances in the lease, the rent so fixed cannot be taken as a fair measure of the yearly value of the subjects. It is then necessary to fix the value in terms of the first alternative method laid down in sec. 6 of the 1854 Act, viz., the rent at which, one year with another, the lands and heritages might in their actual state be reasonably be expected to let from year to year.

In order to assist the assessor to ascertain what is the annual value in circumstances where there is no rent, or the stipulated rent is no guide, the Court has evolved certain principles of valuation. As time has gone on these principles have developed, and it is necessary briefly to examine the growth of the principles before considering in what circumstances each is applied.

Value of Subject in its Actual State.—The first broad principle is that the subject is to be valued as it actually is,[1] and not as it might be if used more favourably, or as it may become owing to its advantageous position.[2] Where a building, therefore, is used as a hotel, the value is its value as a hotel.[3] Similarly, potential feuing value is of no consequence in assessing the annual value.[4] The valuation of grass parks is an important example of the application of this rule. They are valued in their actual state, and their annual value is the rent obtained for the land as grazing land.[5] Woodlands form an exception to this rule under sec. 6 of the 1854 Act. They are valued on the basis of the rent obtainable for them in their natural state as pasture or grazing lands, and it is immaterial that the woods yield no revenue.[6] An unlet deer forest must be valued in its actual condition, and not at its value as grazing ground,[7] and where land was equipped for a golf course, although it was not so used, it must be valued in its existing condition, viz., as a golf course.[8]

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[1] Sec. 6 of the 1854 Act.

[2] *Barony Parochial Board* v. *Assessor for Dumbartonshire*, 1882, 10 R. 39; (No. 25); 19 S.L.R. 728.

[3] *North British Railway Co.* v. *Assessor for Edinburgh*, 1905, 7 F. 435; (No. 239); 42 S.L.R. 508; 12 S.L.T. 859.

[4] *Merchant Company Education Board* v. *Assessor for Edinburgh*, 1911 S.C. 948; (No. 284); 48 S.L.R. 387; 1911, 1 S.L.T. 233; cf. Lord Hunter in *Assessor for Glasgow* v. *Bank of Scotland*, 1925 S.C. 548, at p. 554; (No. 409); 1925 S.L.T. 300.

Potential Value.—If the proprietor makes beneficial use of his property, its value is not affected by considerations as to whether it might not be turned to more lucrative purposes. But where no beneficial use is made of property which has a potential value, the case is different. No man is entitled to withdraw his property from assessment, and, accordingly, where the proprietor imposes such conditions on the use of his property that it is impossible to get any profitable pecuniary return, the assessor must take the potential value of the property and fix the value according to the rent at which it could be let for any profitable purpose.[9]

Methods of Valuation.—As we have seen, where the lands and heritages which have to be valued are actually let, the task of the assessor is comparatively simple. He is bound, with certain exceptions, to treat the rent as the annual value where the lands are *bona fide* let for a rent conditioned as their fair annual value without consideration other than rent. Where, however, the premises are in the occupation of the owner, or where the stipulated rent cannot be taken as a guide, the assessor must fall back on rules for estimating the annual value, which are more or less arbitrary. He must endeavour to ascertain the rent which a hypothetical tenant would be prepared to pay for the subject in the open market. The chief methods employed by assessors and which have been approved by the Courts are—

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[5] See *supra*, p. 72.

[6] *Allan* v. *Dunlop*, 1858, 20 D. 1354; (No. 4).

[7] *Assessor for Argyllshire* v. *Stuart*, 1888, 15 R. 588; (No. 84); 25 S.L.R. 315.

[8] *Maitland-Tennent* v. *Assessor for Edinburgh*, 1930 S.N. 1; 1930 S.L.T. 117.

[9] *Sheriff* v. *Assessor for Argyllshire*, 1885, 12 R. 919; 22 S.L.R. 608; *Blyth Hall Trustees* v. *Assessor for Fifeshire*, 1883, 10 R. 659; (No. 29); 20 S.L.R. 433; *Duke of Montrose* v. *Assessor for Perthshire*, 1890, 17 R. 854; (No. 104); 27 S.L.R. 632; *Maitland-Tennent* v. *Assessor for Edinburgh*, 1930 S.N. 1; 1930 S.L.T. 117.

(1) The Comparative Principle in which the valuation is based upon the rent at which similar properties are actually let.

(2) The Contractor's Principle in which the valuation is based upon the constructional cost or value of the property.

(3) The Revenue or Profits Principle in which the valuation is based upon the profits accruing from the occupation.

Comparative Principle.—It is obvious that in valuing premises, if it is possible to discover premises of a fairly comparable character which are let, the rent which these subjects command will afford a reliable criterion for the annual value. The difficulty is to find exactly similar subjects with which the comparison can be made. Where there is a subject let which can be fairly compared with the subject to be valued, the assessor should ascertain the rent of that subject, and treat that rent as the annual value of the subject to be valued. This principle is applicable to all subjects which are ordinarily in the market, *e.g.*, houses, shops, agricultural land, &c., when it is possible to find subjects which are reasonably comparable in size, locality, and advantage to the subject to be valued. This principle, as can be easily seen, is of wide application; it is the most scientific method when accurately used of ascertaining what rent a hypothetical tenant would be prepared to pay, and it should be applied whenever possible.

Contractor's Principle.—Failing a subject of similar character actually let, the assessor must fall back on other principles for the ascertainment of the annual value. One method of fixing the annual value is to take a percentage of the capital value of the subject, *i.e.*, to consider what return the owners are likely to expect on their capital expenditure, and to treat the return on that capital value as the rent which the owner might be expected to pay for the occupation of the building. "If the company is owner as well as occupier, then, inasmuch as it is by reason of its occupation out of pocket to the extent at least of interest on its capital expenditure in acquiring and building on the land it occupies, the amount of such interest is good evidence of what the company would be willing to pay year by year for the privilege of continuing its occupation."[10] The sum which the owner would require to pay to a contractor for erecting the building is considered as so much capital, and the interest is the annual value. This method, which is known as the contractor's principle, affords only an imperfect test for determining what rent a hypothetical tenant might be expected to give, but it is habitually employed in cases where no other method is available. Although many judges have expressed their dislike for it, it has been recognised as the best test in certain circumstances where comparison is impossible or useless.[1] Lord Kyllachy in *Oakbank Oil Co.* v. *Assessor for Midlothian*[2] described this method as follows:—" The assessor takes the present value of the works, either estimated by reference to original cost, less depreciation, or ascertained by actual valuation. He applies to the value a " (certain) " percentage. He then makes the necessary additions for feu-duty, insurance, and landlord's taxes. And the result is supposed to represent the rent which, if the subjects were let in their actual state, the landlord would expect to get, and the tenant, if he required the subjects, would require to pay." It is employed in fixing the value of buildings such as factories, &c., which have not been erected to be let, and it has recently been applied with the approval of the Court to new buildings deliberately erected as a commercial venture where the comparative method was not available.[3] When it is settled that this principle is applicable to a particular building, the only difficulty encountered is in the ascertainment of the capital value of that building. There are various methods of estimating the capital value which have been approved by the Courts, and they vary as regards the particular class of building. We shall consider these in greater detail at a later stage.

Revenue Principle.—The method of taking the profits derived from an undertaking carried on in certain premises as an indication of the rent of these premises is known as the revenue principle. It is obvious that it will only be applicable to a certain class of subject. " To attempt to fix the rent of ordinary trading or manufacturing premises by reference to the profits of the trade or business would be altogether wrong in principle, and would in many, if not most, cases lead to absurd results. It is quite true that there are certain cases—a very limited class of cases—in which valuations on the proposed basis " (the revenue principle) " are usual and have been sustained. Railways, harbours, waterworks, gasworks, railway refreshment rooms, &c., are examples. But these are all cases of monopoly or *quasi*-monopoly—monopoly associated with the particular lands and heritages. And it may well be that in such cases the returns or profits may not unreasonably be treated as being really revenue from the heritable subjects."[4] It is only where profits are due to the occupation of the particular lands and heritages that they will afford any guide in determining their annual value. The Valuation Acts take no account of business profits in the ordinary way. They are primarily concerned with the occupation of lands and heritages. An example will show the distinction more clearly. The revenue of a water or gas company may be said to be due to their occupation of the particular works in which their undertaking is carried on. Their revenue could not be earned elsewhere. But the profits of an ordinary trader could within limits be earned practically anywhere. If he is disturbed in his occupation, he can probably find other suitable premises. Profits should, therefore, not be taken into consideration in valuing trading premises. It is only in cases where a trade is a monopoly or *quasi*-monopoly associated with particular lands and heritages that the valuation of these lands and heritages can be made with reference to revenue. Railways, harbours, waterworks, gasworks, and electricity works are examples of this class of case. The gross receipts of the concern are first ascertained, and from those the expenses incurred in earning these receipts must be deducted. Interest on the capital sunk by the tenant is then deducted, and the result is taken as the net receipts, but no deduction must be made from these receipts in respect of any item of expenditure properly falling on the hypothetical landlord. The next inquiry is how much of those receipts a tenant would be willing to pay to the landlord. It is clear that no tenant will undertake to pay a sum equal to the whole of the net receipts, for, if he did, there would be nothing to induce him to provide the necessary working capital and to undertake the risk of loss and the liability to pay the rent in any event. Some allowance must, therefore, be made for tenant's profits. These are usually estimated at 20 per cent. on the net receipts. Having deducted the tenant's profits, the remainder is assumed to be the rent of the subjects. Of all the "principles" of valuation the revenue principle is the most artificial and arbitrary. It has been said that, in applying the principle, "it is impossible to deal out justice."[5] Several recent cases, culminating in *Dunfermline District Committee* v. *Assessor for Fife*,[6] indicate a growing uneasiness on the part of the Court in rigidly applying the revenue method, but it is still regularly utilised as the least objectionable method of ascertaining the annual value of the limited but very important class of subjects to which it has been deemed appropriate.

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[10] *Metropolitan Water Board* v. *Chertsey Assessment Committee*, [1916] 1 A.C. 337, Lord Parker at p. 360.

[1] *Guardbridge Paper Co.* v. *Assessor for Fife*, 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360.

[2] 1902, 4 F. 520, at p. 523; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471.

[3] *Scottish Greyhound Racing Co.* v. *Assessor for Glasgow*, 1929 S.C. 285; (No. 447); 1929 S.L.T. 197.

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[4] Lord Kyllachy in *Oakbank Oil Co.* v. *Assessor for Midlothian*, 1902, 4 F. 520, at p. 524; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471.

1. Comparative Principle.

Failing an actual rent which can be truly regarded as a fair measure of the annual value, the principle of comparison is the next best means of ascertaining what the fair rent would be.[7] Its most common application is to subjects ordinarily in the market, such as houses in towns or agricultural land in the country, and the principle is applied by ascertaining the rent of a subject similar in size, locality, and advantage, and treating that as the rent of the subject in question.[8] Where no subject precisely similar can be found, allowance must be made for variations.[9] The fact that the owners are a statutory body does not render this principle inapplicable.[10]

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[5] *Denny and Dunipace Magistrates* v. *Assessor for Stirlingshire*, 1927 S.C. 464, Lord Sands at p. 469; (No. 420); 1927 S.L.T. 146.

[6] 1929 S.C. 304; (No. 449); 1929 S.L.T. 281.

[7] As to the difficulty of applying the comparative principle, see *Bank of Scotland* v. *Assessor for Glasgow*, January, 1930, unreported, per Lord Sands.

[8] See *Macfarlane*, 1872, 11 M. 985; (No. 81); 44 J. 432; 9 S.L.R. 445; *Assessor for Argyllshire* v. *Islay Distillery Co.*, 1884, 11 R. 841; (No. 53); 21 S.L.R. 563.

[9] *University of Glasgow*, 1872, 11 M. 985; (No. 82); 44 J. 432; 9 S.L.R. 445.

[10] *Glasgow Parish Council* v. *Assessor for Glasgow*, 1914 S.C. 651; (No. 320); 51 S.L.R. 148; 1913, 2 S.L.T. 435.

In ascertaining the value of certain classes of subjects, such as factories,[1] shops,[2] offices,[3] and schools,[4] the comparative principle has been applied. In each case a subject of the same class was found with an ascertained annual value. The difficulty was to compare the two subjects—that with the ascertained value, and that where the value is being fixed. A common factor must be found. This may be in houses, factories, shops, warehouses, &c., floor space, in factories the number of looms, in schools the number of pupils, in theatres the number of seats. By means of this factor the value can be ascertained from the one and applied to the other. The difficulty is to select a reliable factor to compare the two subjects. A false one will give an entirely fallacious result.[5]

2. Contractor's Principle.

This principle was formerly looked on with distrust by the Courts,[6] and was treated as suitable for application only as a last resort.[7] It is, however, now regarded in certain circumstances as the only possible method of valuation.[8]

Development.—As the principle has been applied by the Courts, gradual alterations have been made to avoid results which would otherwise bring hardship and the effect has been considerably to alter the principle itself. The theory behind the principle has remained consistently the same, though the means laid down for carrying out that theory have so altered that the name " contractor's principle " at first sight seems out of place. The true reason for the name can, however, be found in the earlier illustrations of the principle.

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[1] *Webster & Sons, Ltd.* v. *Assessor for Arbroath,* 1902, 4 F. 539; (No. 217); 39 S.L.R. 578; 9 S.L.T. 445.

[2] *Jenner & Co.* v. *Assessor for Edinburgh,* 1908 S.C. 601; (No. 255); 45 S.L.R. 493; 15 S.L.T. 917.

[3] *North British and Mercantile Insurance Co.* v. *Assessor for Edinburgh,* 1908 S.C. 601; (No. 256); 45 S.L.R. 493; 15 S.L.T. 917.

[4] *Merchant Company Education Board* v. *Assessor for Edinburgh,* 1911 S.C. 948; (No. 284); 48 S.L.R. 387; 1911, 1 S.L.T. 233.

[5] *Supreme Grand Royal Arch Chapter of Scotland* v. *Assessor for Edinburgh,* 1911 S.C. 962; (No. 286); 48 S.L.R. 375; 1911, 1 S.L.T. 227.

[6] *Kinross and Milnathort Gas Light Co., Ltd.* v. *Assessor for Kinross,* 1890, 17 R. 850; (No. 110); 27 S.L.R. 631.

[7] *M'Vitie* v. *Assessor for Edinburgh,* 1898, 25 R. 601; (No. 190); 35 S.L.R. 666; 5 S.L.T. 385.

[8] *Guardbridge Paper Co.* v. *Assessor for Fife,* 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360. The most recent observations upon the difficulty of applying this principle to certain cases are to be found in the opinion of Lord Sands in *Bank of Scotland* v. *Assessor for Glasgow,* January, 1930, unreported.

The underlying theory is comparatively simple; one method of ascertaining the annual value of a building is to regard it as so much capital invested by the owner, the interest upon which sum, plus the landlord's outgoings, represents the annual value. The rent or annual value of the building is the ordinary profit on the capital sunk in it after paying for the ground rent and other incidentals.[9] It is therefore necessary to ascertain first the capital value of the buildings, and then by taking a percentage representing a fair interest on that capital, and, after adding landlord's rates and landlords' renewals, the figure brought out will approximately represent the annual value of the subjects. Difficulties arise in ascertaining the capital value of the buildings. The Court has approved of different methods of ascertaining that value, which involve different conceptions of what value is being dealt with, and to explain the principle it is necessary briefly to refer to these methods. Three stages can be traced.

1. *Capital Cost.*—First of all, capital value is regarded as that sum of money which it would cost the owner to erect the building; in other words, what sum he would require to pay to a contractor to build. *In Shields* v. *Assessor for Perth*[1] the capital value of the building was the estimated cost of erecting it.[2] Where a mill is purchased and has not been repaired or added to since the purchase, the price paid for it may fairly be taken as the capital value, as that price is assumed to be the cost of erection.[3] It is legitimate to take into consideration the price obtained at a recent sale of the premises to be valued,[4] but the price obtained at a forced sale cannot be taken as the basis of valuation.[5]

A difficulty arises, however, where there has been no recent purchase and the building is not newly erected. In such cases the price which a contractor would require in order to erect the building might possess the remotest connection with the present capital value. Hence assessors came to calculate the capital value on a new basis common at first among flax mills. They ascertained the capital value of each building by comparison with known capital values of similar buildings. The floorage area was first calculated, and to this area was applied a certain value common throughout the industry per square foot. Hence, for example, the capital value of a hydropathic was calculated on the basis of so much per cubic foot.[6] This method is not really the contractor's principle at all, and in ascertaining the capital value of a mill was preferred to the contractor's method, which was expressly rejected.[7]

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[9] Lord Hunter in *Guardbridge Paper Co.* v. *Assessor for Fife, supra*, at p. 649.

[1] 1875, 4 R. 1146; (No. 113).

[2] Cf. *St. Cuthbert's Co-operative Association* v. *Assessor for Edinburgh*, 1896, 23 R. 681; (No. 173); 33 S.L.R. 487; 3 S.L.T. 278.

[3] *Thomson*, 1871, 11 M. 984; (No. 78); 44 J. 431; 9 S.L.R. 444.

[4] *Andrew Lowson, Ltd.* v. *Assessor for Arbroath*, 1901, 3 F. 466; (No. 212); 38 S.L.R. 496; 8 S.L.T. 470; *Trustees of the Society of the Sacred Heart* v. *Assessor for Edinburgh*, 11th January, 1922, unreported.

[5] *Craiks, Ltd.* v. *Assessor for Forfar*, 1909 S.C. 658; (No. 262); 46 S.L.R. 438; 1909, 1 S.L.T. 269.

2. *Present Value.*—Had the matter rested there, the contractor's principle would in all probability have died out. But the second stage in its development rendered it much more effective. The structure is valued no longer by ascertaining what it would cost to erect it, but by finding what its present value is. The first sign of this new conception appears in *M'Vitie* v. *Assessor for Edinburgh*,[8] where the capital value is not just what it would cost to erect the structure, but the sum expended on construction less any expenditure on construction which does not increase the lettable value.[9] The new phase is finally established in the *Oakbank Oil Co.* v. *Assessor for Midlothian*,[1] where capital value is declared to mean present value, or what the works in their present condition would cost if purchased or acquired now by the hypothetical landlord. This value is to be ascertained by reference to the original cost less depreciation, or where possible by actual valuation. *Andrew Lowson, Ltd.* v. *Assessor for Arbroath*[2] is an instance of actual valuation made possible by a recent sale, in which case the sale price is taken as the capital value, since it is the present value of the building.

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[6] *Philp* v. *Assessor for Rothesay*, 1888, 15 R. 627; (No. 87); 25 S.L.R. 462.

[7] *Cowan & Sons, Ltd.* v. *Assessor for Midlothian*, 1894, 21 R. 812; (No. 160); 31 S.L.R. 733; 2 S.L.T. 48.

[8] 1898, 25 R. 601; (No. 190); 35 S.L.R. 666; 5 S.L.T. 385.

[9] Cf. *Jenner & Co.* v. *Assessor for Edinburgh*, 1908 S.C. 601; (No. 255); 45 S.L.R. 493; 15 S.L.T. 917; *Wallace, Scott & Co.* v. *Assessor for Glasgow*, 1916 S.C. 670; (No. 344); 53 S.L.R. 484; 1916, 1 S.L.T. 70.

[1] 1902, 4 F. 520; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471.

[2] 1901, 3 F. 466; (No. 212); 38 S.L.R. 496; 8 S.L.T. 470.

3. *Value to the Proprietor.*—The third and last phase is a development upon the second phase. Experience showed that the capital value of structures was not always a safe basis for the calculation. In some instances costly and highly ornamented structures might be ill adapted for the purpose to which they were put. Their true annual value, therefore, would not be dependent upon the cost of erecting them, or their present value *qua* structures. Hence a new means of ascertaining their annual value was laid down. Their value *qua* structures became of secondary importance; the true capital value was the value of the building for the purpose for which it was built. The lettable value, which is the object for which capital value is calculated, is the value which the hypothetical tenant would be willing to pay for a structure adapted for the particular purpose which he required. The method of ascertaining the annual value according to this purpose is as follows:—The purpose for which the building is used is considered. In the case in question it is a school, the main advantage of which is its capacity to hold pupils. By taking the capital cost of a newly built school and finding its cost per pupil space, and by applying this figure to the case in question, the capital value of such a school in the open market will be found, and the interest on such capital sum will represent the amount which a hypothetical tenant would be willing to pay in rent.[3]

In a recent case[4] two alternative methods are laid down—(1) Where comparison is possible, the contractor's principle is to be applied by taking the cost per cubic foot as ascertained from similar buildings; (2) where comparison is impossible, the contractor's principle is to be applied by ascertaining the cubic contents of the building and applying a rate per cubic foot based on pre-war cost of construction.

Cost of Construction.—In applying the contractor's principle the prices which were taken in the first two cases after the termination of the war were 1914 prices.[5] At the date when these cases were decided circumstances were abnormal, and post-war prices had not been sufficiently stabilised to justify their being taken. In 1927, however, the assessor increased the valuation of certain engineering works by adding 25 per cent. to the pre-war prices which he had previously taken, and, although the company led evidence that there was little demand for industrial buildings at the price suggested by the assessor, the Court sustained the assessor's valuation.[6] Pre-war cost has been held not to be applicable where buildings are erected and expenditure incurred deliberately in connection with a new business; the contractor's principle is to be applied by taking the cost of erection to the company.[7]

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[3] *Merchant Company Education Board* v. *Assessor for Edinburgh*, 1911 S.C. 948; (No. 284); 48 S.L.R. 387; 1911, 1 S.L.T. 233; *St. George's School* v. *Assessor for Edinburgh*, 1916 S.C. 675; (No. 338); 53 S.L.R. 487; 1916, 1 S.L.T. 99.

[4] *Guardbridge Paper Co.* v. *Assessor for Fife*, 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360.

[5] *Guardbridge Paper Co.* v. *Assessor for Fife, supra; Colville & Sons* v. *Assessor for Lanarkshire*, 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

Modifications of Contractor's Principle.—There are two other considerations which may have a bearing upon the ultimate figure for the valuation. These considerations are not means of ascertaining value, but are grounds for the reduction of the figure found by the application of the principle which has just been discussed.

(1) *Unremunerative Improvements.*—In subjects the value of which is ascertained by the contractor's principle cost is the factor for consideration. But where large sums have been expended upon unremunerative equipment, on, for instance, a generous supply of accommodation, recreation and refreshment for employees in a factory,[8] an allowance falls to be made. As such expenditure is never wholly unremunerative, half of it only falls to be taken into account by the assessor.

(2) *Trade Depression.*—On the ground of trade depression a deduction has been made. This was considered in *Bulloch, Lade & Co.* v. *Assessor for Argyllshire,*[9] and decided in *Colville & Sons* v. *Assessor for Lanarkshire.*[1] Temporary depression is irrelevant. But where an industry owing to overcapitalisation and increased competition at home and abroad is suffering from a collapse of trade, which must continue for a long period, the deduction has been made. In the case

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[6] *G. & J. Weir* v. *Assessor for Glasgow,* 1927 S.C. 476; (No. 422); 1927 S.L.T. 261.

[7] *Scottish Greyhound Racing Co.* v. *Assessor for Glasgow,* 1929 S.C. 285; (No. 447); 1929 S.L.T. 197.

[8] *Wallace, Scott & Co.* v. *Assessor for Glasgow,* 1916 S.C. 670; (No. 344); 53 S.L.R. 484; 1916, 1 S.L.T. 70.

[9] 1919 S.C. 478; (No. 357); 56 S.L.R. 119; 1919, 1 S.L.T. 56.

[1] 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

of the steel trade this was fixed at 30 per cent. of the figures reached by the assessor,[2] in the case of the iron trade at 25 per cent.,[3] and in another case of businesses comprising the manufacture of steel, the construction of heavy armour plating and naval guns, and general engineering at 15 per cent.[4] Shipbuilding yards and engineering works were refused this deduction on the ground that the fortunes of these industries were normally of a fluctuating character, and it was not proved that the depression was likely to be of a permanent character.[5] Where a firm which had received the deduction in 1922 claimed that in the interval between 1922 and 1925 a further deterioration of plant had taken place, the Court refused to grant a further deduction in respect of this plant; the fact that the plant was likely to be of very little value in the future was taken into account in allowing the 1922 deduction.[6]

3. Revenue Principle.

The revenue principle has always been recognised by the Courts as one of the methods of assessing the yearly value of certain subjects. The net revenue of a concern clearly will affect the rent which a tenant would be willing to pay, and therefore will assist in fixing the yearly value of that concern for the purposes of the Valuation Acts. But revenue, though helpful, is often misleading. Where a high revenue is due to the personal ability of those in control, it would be unfair to use it as a measure of the annual value of the relative lands and heritages. It is only where the revenue is due mainly to the existence of a monopoly which is enjoyed by a statutory undertaking that it is useful as a guide to the annual value of lands and heritages. Where such a monopoly is enjoyed the personal element in the making of profit is small. The fact of the monopoly is to a large extent the cause of the profit which will, therefore, be a fair guide to what a tenant would be willing to pay for the subjects.[7]

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[2] *Colville & Sons* v. *Assessor for Lanarkshire*, *supra.*

[3] *Merry & Cunninghame* v. *Assessor for Lanarkshire*, 1923 S.C. 687; (No. 387); 60 S.L.R. 305; 1923 S.L.T. 274.

[4] *Beardmore & Co.* v. *Assessor for Glasgow*, 1926 S.C. 483; (No. 415); 1926 S.L.T. 172.

[5] *G. & T. Weir* v. *Assessor for Glasgow*, 1924 S.C. 670; (No. 392); 61 S.L.R. 384; 1924 S.L.T. 310.

[6] *Assessor for Lanarkshire* v. *David Colville & Sons*, 1925 S.C. 527; (No. 407); 1925 S.L.T. 291.

[7] *Oakbank Oil Co.* v. *Assessor for Midlothian*, 1902, 4 F. 520; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471.

Statutory undertakings may similarly be assessed on the revenue principle;[8] but even where there is no monopoly, the principle is also applicable in certain cases where the profits earned would have a bearing on the ability to pay rent—in theatres, but not in shops where profits are part of the goodwill.[9]

How the Revenue must be ascertained to get the Annual Value.—It is clearly necessary to analyse both the revenue and the expenditure carefully in order to obtain a figure which will ultimately yield a fair annual value. The gross revenue must first be ascertained. The assessor is probably entitled for this purpose to call upon the occupier to produce a statement of the year's trading by virtue of sec. 10 of the 1854 Act, though he is not entitled to demand the books of the concern.[1] In order to ascertain the gross revenue, five years' trading,[2] or three years in the case of a publican,[3] is a fair basis. In practice the five years' period is not always adopted, as being inapplicable to rapidly expanding concerns, and the three years' average is preferred. Because one year's revenue is exceptionally large, that is no reason for excluding it,[4] and the assessor is probably entitled to take only one year's trading if he can get no more information.[5] The fact that one year's revenue owing to severe trade competition is exceptionally small is not a ground for dispensing with an established average valuation.[6] In one case, however,[7] where the assessor had been in the habit of assessing the subject by taking the revenue of the preceding year alone, he was held not entitled to depart from that practice and take the revenue over a period of years, when the revenue of the preceding year happened to be nil.

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[8] *E.g., Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47.

[9] Cf. *Howard & Wyndham* v. *Assessor for Edinburgh*, 1920 S.C. 502; (No. 363); 57 S.L.R. 246; 1921, 1 S.L.T. 195; *Cartwright* v. *Sculcoates Union*, [1900] A.C. 150. See also *Haggart* v. *Assessor for Leith*, 1912 S.C. 784; (No. 298); 49 S.L.R. 163; 1911, 2 S.L.T. 502.

[1] See *Scouller* v. *Assessor for Glasgow*, 1912 S.C. 757; (No. 297); 49 S.L.R. 152; 1911, 2 S.L.T. 491.

[2] *Melrose Gas Co.* v. *Assessor for Roxburghshire*, 1908 S.C. 600; (No. 253); 45 S.L.R. 500; 15 S.L.T. 892.

[3] *Scouller* v. *Assessor for Glasgow, supra.*

[4] *Melrose Gas Co.* v. *Assessor for Roxburghshire, supra.*

[5] See opinion in *Arbroath Electric Light and Power Co.* v. *Assessor for Arbroath*, 1915 S.C. 816; (No. 335); 52 S.L.R. 252; 1915, 1 S.L.T. 53.

[6] *Lanarkshire Tramways Co.* v. *Assessor of Railways and Canals*, 1925, 35 P.L.M. 151.

[7] *Burntisland Harbour Commissioners* v. *Assessor for Burntisland*, 1921 S.C. 609; (No. 377); 58 S.L.R. 294; 1921, 1 S.L.T. 263.

Deductions from Gross Revenue to arrive at Annual Value.—Having ascertained the gross revenue, certain deductions fall to be made in order to arrive at the net revenue. Minor variations occur in different cases, but, broadly, there are four components, viz.:—(1) Working charges: these include management and maintenance charges (excluding owner's rates, taxes, and proportion of maintenance). (2) Interest on the tenant's working or floating capital; the rate of interest being usually taken at 5 per cent., whilst the floating capital is estimated at from four to six months' working expenses, according to the character of the undertaking. (3) Interest on the tenant's fixed capital, *i.e.*, tenant's plant, usually 5 per cent. (4) Allowance for depreciation on the tenant's plant at a rate or rates appropriate to the nature of the plant.

Expenses of Earning the Revenue.—The first and most obvious deduction is the expense of management, *i.e.*, the expense of earning the revenue.[8] In the case of a harbour this means the cost of collecting the dues.[9] Salaries paid to employees,[1] directors' and auditors' fees,[2] and insurance[3] can also be deducted. All other working charges can be deducted, such as expenditure on maintenance and repairs.[4] But only the actual sum spent on repairs can be deducted. Where renewals and not repairs have been carried out, the company is not entitled to deduct an estimate of what the repairs would have cost.[5]

Landlord's and Tenant's Charges.—In the ordinary case where an undertaking is being carried on for the purpose of earning profits, it is only the expenditure which would fall on a tenant which can be deducted, and no deduction is made for expenditure which would naturally fall on the hypothetical landlord.[6] But where an undertaking is being carried on in the public interest, and the company are debarred by statute from earning more than is required to enable them to pay their way, *i.e.*, where it is non-profit-earning as distinct from profit-earning, the whole expenses of management, without distinguishing between expenditure which would fall upon the tenant and that which would fall upon the landlord, is deductible.[7] The logical basis for this rule is not easy to understand, but it is now firmly established.[8]

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[8] *Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47.

[9] *Clyde Navigation Trustees*, 1868, 11 M. 979; (No. 60).

[1] *Dundee Gas Commissioners* v. *Assessor for Dundee*, 1881, 9 R. 1240; (No. 1); *City Parish of Glasgow* v. *Assessor of Railways and Canals*, (O.H.) 1885, 24 S.L.R. 3.

[2] *Cowdenbeath Gas Co.* v. *Assessor for Fifeshire*, 1924 S.C. 639; (No. 393); 61 S.L.R. 246; 1924 S.L.T. 270.

[3] *Dundee Gas Commissioners* v. *Assessor for Dundee*, *supra.*

[4] *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1916 S.C. 667; (No. 340); 53 S.L.R. 481; 1916, 1 S.L.T. 69; *City Parish of Glasgow* v. *Assessor of Railways and Canals*, *supra.*

[5] *Bellshill Gas Co.* v. *Assessor for Lanarkshire*, 1909 S.C. 652; (No. 260); 46 S.L.R. 432; 1909, 1 S.L.T. 228.

But while the whole expenses of management may be deducted, feu-duties and landlord's taxes do not form permissible deductions, as these are imposed on the hypothetical landlord and directly recoverable from him.[9] Landlord's law and Parliamentary charges are not deductible,[1] nor income tax as it is a personal tax chargeable on tenant's profits and not therefore deductible in ascertaining annual value.[2]

Interest on Tenant's Capital.—An allowance for interest on the capital which a tenant would normally have to provide for the working of the concern is also made.[3] The tenant's capital consists partly of floating capital and partly of moveable plant.[4] But only such tenant's capital as is necessary for the carrying on of the business is included.[5] As regards the rate of interest to be allowed on tenant's capital, the customary rate is 5 per cent., although higher rates prevailed during the war; but in fixing the rate, whatever it may be, the hypothetical tenant must be regarded not as borrowing money for the business, but as investing his own money.[6]

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[6] *Leith Docks Commissioners* v. *Assessor for Leith*, 1907 S.C. 751; (No. 252); 44 S.L.R. 444; 14 S.L.T. 930; *City Parish of Glasgow* v. *Assessor of Railways and Canals*, (O.H.) 1885, 24 S.L.R. 3; *Cowdenbeath Gas Co.* v. *Assessor of Railways and Canals*, 1928, 38 P.L.M. 212.

[7] *Magistrates of Glasgow* v. *Glasgow Inspector of Poor*, (O.H) 1884, 12 R. 3; 22 S.L.R. 10; *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1909 S.C. 664; (No. 264); 46 S.L.R. 442; 1909, 1 S.L.T. 307.

[8] *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1912 S.C. 790; (No. 304); 49 S.L.R. 311; 1912, 1 S.L.T. 132.

[9] *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1912 S.C. 790, *supra*.

[1] *City Parish of Glasgow* v. *Assessor of Railways and Canals*, (O.H.) 1885, 24 S.L.R. 3.

[2] *Kirkcaldy Gas Light Co.* v. *Assessor for Kirkcaldy*, 1905, 7 F. 430; (No. 238); 42 S.L.R. 510; 12 S.L.T. 844; *Edinburgh and Leith Gas Commissioners*, 1916 S.C. 667; (No. 340); 53 S.L.R. 481; 1916, 1 S.L.T. 69.

[3] *Dalbeattie Police Commissioners* v. *Assessor for Kirkcudbrightshire*, 1882, 10 R. 23; (No. 20); 19 S.L.R. 568; *Assessor for Falkirk* v. *Falkirk Gas Co.*, 1883, 10 R. 651; (No. 28); 20 S.L.R. 427.

[4] *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891; *Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47; *Coatbridge and Airdrie Electric Supply Co.* v. *Assessor for Coatbridge*, 1907 S.C. 780; (No. 250); 44 S.L.R. 454; 14 S.L.T. 937.

In this connection it must be observed that the revenue principle professes to ascertain the rent which the tenant, as is supposed, would be willing to pay, and it is illegitimate to consider what the landlord may have done with the rent. Hence, no allowance can be made for sums put to a sinking fund in order to extinguish debt,[7] nor for interest and sinking fund in connection with expenditure on uncompleted and unproductive works,[8] nor for the half-yearly instalments made in repayment of a loan for the purchase of the perpetual right of water supply annually, although these instalments were met out of the rates.[9] The revenue principle must be applied consistently,[10] although its application may result in some cases in some injustice,[1] and it is only in very exceptional circumstances that any further deductions beyond these already sanctioned will be allowed. In a special case, however, where waterworks had been constructed during the war at an exceptionally high cost, due to abnormal economic conditions and to the fact that the work had to be completed with the least delay possible (at the request of the Admiralty), a deduction of 20 per cent. was allowed from the revenue.[2]

Tenant's Profits.—When the working expenses and the interest on the tenant's capital have been deducted, the result is the net receipts for valuation purposes. Some further deduction must be made in the name of tenant's profits, since no tenant would be prepared to pay a rent equal to the net receipts. Where the undertaking to be valued is a profit-earning concern, an allowance for tenant's profits falls to be made, and this is usually estimated at 20 per cent. of the adjusted net receipts.[3] In a recent case concerning a tramway company the tenant's allowance for interest, profits, and risks was continued at a customary 17½ per cent. on the estimated tenant's capital.[4] In most of the cases to which the revenue principle applies the undertakings are statutory and are not intended to produce profit, and, if the undertaking is prohibited from making profits, no allowance for tenant's profits is made.[5] But the undertaking can only come within the category of non-profit-earning concerns if it is limited by statute to the levying of such rates as will enable it to pay its way, or the rates levied are only sufficient to meet expenditure which it is obliged to incur by statute.[6] In other cases where the rates are in excess of the cost of management and maintenance,[7] or where the balance is applied to the reduction of debt and the extension of the undertaking,[8] the undertaking is valued as a normal profit-earning concern, and the full allowance for tenant's profits is made. The explanation for the refusal to allow a deduction for tenant's profits where the undertaking is non-profit earning is that, as the whole surplus revenue is devoted to statutory purposes, there can be no tenant's profits.[9] But there is another class of public undertaking, those as regards which the earning of profits is limited by specific statutory enactment, and where, consequently, the allowance for tenant's profits has been restricted by the Court to one-half the usual rate, viz., 10 per cent. instead of 20 per cent.[1]

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[5] *Cowdenbeath Gas Co.* v. *Assessor for Fifeshire*, 1924 S.C. 639; (No. 393); 61 S.L.R. 246; 1924 S.L.T. 270; *Stranraer Gas Co.* v. *Assessor for Stranraer*, 1924 S.C. 651; (No. 394); 61 S.L.R. 253; 1924 S.L.T. 277.

[6] *Cowdenbeath Gas Co.* v. *Assessor for Fifeshire*, *supra.*

[7] *Magistrates of Glasgow* v. *Glasgow Inspector of Poor*, (O.H.) 1884, 12 R. 3; 22 S.L.R. 10.

[8] *Parish Council of Edinburgh* v. *Assessor of Railways and Canals*, 1925, 35 P.L.M. 140; *Aberdeen Magistrates* v. *Assessor for Aberdeen*, 1927 S.C. 458; (No. 426); 1927 S.L.T. 158.

[9] *Denny and Dunipace Magistrates* v. *Assessor for Stirlingshire*, 1927 S.C. 464; (No. 420); 1927 S.L.T. 146.

[10] *Lanarkshire Hydro-Electric Power Co.* v. *Assessor for Lanarkshire*, February, 1930, unreported.

[1] *Denny and Dunipace Magistrates* v. *Assessor for Stirlingshire*, *supra.*

[2] *Assessor for Fifeshire* v. *Dunfermline District Committee*, 1929 S.C. 304; (No. 449); 1929 S.L.T. 281.

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[3] *Kinross and Milnathort Gas Co.* v. *Assessor for Kinross-shire*, 1890, 17 R. 850; (No. 110); 27 S.L.R. 631; *Kirkcaldy Gas Light Co.* v. *Assessor for Kirkcaldy*, 1905 7 F. 430; (No. 238); 42 S.L.R. 510; 12 S.L.T. 844; *Clyde Navigation Trustees*, 1868, 11 M. 979; (No. 60); *Assessor for Falkirk* v. *Falkirk Gas Co.*, 1883, 10 R. 651, at 656; (No. 28); 20 S.L.R. 427.

[4] *Dunfermline and District Tramways Co.* v. *Assessor of Railways and Canals*, 1925, 35 P.L.M. 207.

[5] *Caledonian Canal Commissioners* v. *Assessor of Railways and Canals*, (O.H.) 1886, 24 S.L.R. 80; *Kirkwall Harbour Trustees* v. *Assessor for Kirkwall*, 1881, 9 R. 1243; (No. 4); *Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47; *Dalbeattie Police Commissioners* v. *Assessor for Kirkcudbrightshire*, 1882, 10 R. 23; (No. 20); 19 S.L.R. 568.

[6] *Magistrates of Glasgow* v. *Glasgow Inspector of Poor*, (O.H.) 1884, 12 R. 3; 22 S.L.R. 10; *Ayr Harbour Trustees* v. *Assessor for Ayr*, *supra*.

[7] *Clyde Navigation Trustees*, 1868, 11 M. 979; (No. 60); *Leith Docks Commissioners* v. *Assessor for Leith*, 1907 S.C. 751; (No. 252); 44 S.L.R. 444; 14 S.L.T. 930; *Mersey Docks and Harbour Board* v. *Birkenhead Assessment Committee*, [1901] A.C. 175.

[8] *Clyde Navigation Trustees* v. *Assessor for Lanarkshire*, 1910 S.C. 840; (No. 271); 47 S.L.R. 384; 1910, 1 S.L.T. 265.

[9] *Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47.

Allocation of Value.—Where an undertaking which supplies gas, water, or electricity throughout more than one parish is being assessed, the question arises as to how the annual value is to be apportioned among the various parishes. The proper method of allocating the annual value of the whole undertaking is to give each parish the proportion of the total annual value which the structual cost of the works in that parish bears to the total structural cost.[2] Where a harbour is in two parishes, the correct method of apportioning the *cumulo* value is according to the lengths of quayage in the two parishes respectively,[3] and a ferry between two counties is entered in the rolls of both counties and the value allocated between the two.[4] Special rules have been evolved for the allocation of the value of mineral fields which are situated partly in one valuation district and partly in another. The equitable rule for apportioning the valuation between the two districts is as follows:—(1) Where the minerals are not being worked, on the basis of the fixed rent apportioned according to the surface area of the minerals in each district; (2) where the minerals are being worked, on the basis of royalties actually earned apportioned according to the amount earned from the minerals won in each district, with the addition of any sum by which the fixed rent exceeded the royalties apportioned according to the surface area.[5]

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[1] *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891 (a case of a Corporation electricity undertaking).

[2] *Dundee Water Commissioners* v. *Dundee Road Trustees*, 1883, 11 R. 390; (Nos. 35-37); 21 S.L.R. 261; followed in *Magistrates of Glasgow* v. *Glasgow Inspector of Poor*, (O.H.) 1884, 12 R. 3; 22 S.L.R. 10; and *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1909 S.C. 664; (No. 264); 46 S.L.R. 442; 1909, 1 S.L.T. 307.

[3] *Ayr Harbour Trustees* v. *Assessor for Ayr*, 1894, 21 R. 807; (No. 158); 31 S.L.R. 726; 2 S.L.T. 47.

[4] *Lord Blantyre*, 1877, 4 R. 1150; (No. 125).

[5] *United Collieries* v. *Assessor for Lanarkshire*, 1912 S.C. 800; (No. 302); 49 S.L.R. 301; 1912, 1 S.L.T. 177, overruling *Edinburgh Collieries Co.* v. *Assessor for Musselburgh*, 1906, 8 F. 484; (No. 245); 43 S.L.R. 307; 13 S.L.T. 763.

CHAPTER VI.

APPLICATION OF PRINCIPLES OF VALUATION TO SPECIAL SUBJECTS.

1. Dwelling-Houses, Shops, and Offices.

1. *Dwelling-houses.*—Where such houses are not let, or the assessor cannot use the stipulated rent to fix the annual value, other methods must be adopted. As regards houses in towns, the principle of comparison with houses of the same class in the same streets or neighbourhood is the proper method to apply.[1] Where the house in question has some disadvantage not shared by those with which it is compared, an allowance must be made therefor.[2] As regards dwelling-houses in the country comparison is more difficult. The contractor's principle applying cost of construction has not been favoured, since the building has been erected in most cases without any view of profit. Further, this class of property is not ordinarily let at all, and the demand for such houses being small, the probable rent is not high. The assessor is not entitled to regard what value the house has to its proprietor, but he must consider the value of such a house in the open market.[3] Where possible, the method of comparison with similar mansions in the neighbourhood should be applied, allowing for differences in accommodation and situation.[4] Shootings have, however, no bearing at all upon the value of the house, since they are entered as separate subjects.[5] Farms also fall to be assessed on the principle of comparison.[6]

2. *Shops and Offices.*—The proper method of assessing these subjects where there is no lease to guide the assessor

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[1] *Macfarlane*, 1872, 11 M. 985; (No. 81); 44 J. 432; 9 S.L.R. 445; *Binning*, 1872, 11 M. 988; (No. 88); 44 J. 433; 9 S.L.R. 497.

[2] *University of Glasgow*, 1872, 11 M. 985; (No. 82); 44 J. 432; 9 S.L.R. 445; cf. *Laird*, 1881, 9 R. 1245; (No. 12); lands adjoining villa.

[3] *Forbes Irvine* v. *Assessor for Aberdeenshire*, 1893, 20 R. 626; (No. 144); 30 S.L.R. 617, commented on in *Scott* v. *Assessor for Kincardineshire*, 1914 S.C. 655; (No. 322); 51 S.L.R. 172; 1914, 1 S.L.T. 8.

[4] *Gladstone*, 1872, 11 M. 986; (No. 84); 44 J. 432; 9 S.L.R. 446.

[5] *Scott* v. *Assessor for Kincardineshire*, *supra*.

[6] *Wyllie* v. *Assessor for East Lothian*, 1922 S.C. 445; (No. 383); 59 S.L.R. 293; 1922 S.L.T. 214.

is to adopt the principle of comparison.[7] Similar premises in the same neighbourhood must therefore be found. Where no shop or office exactly similar in size can be found, the principle of comparison may be adopted by comparing the floorage areas and applying thereto a varying rate per square foot.[8] Where the method of comparison is wholly inapplicable, then only should the contractor's principle be applied.[9] It can also be used as a check on a result otherwise arrived at.

In the case of offices in streets where no similar offices are situated with which a comparison can be made, the value may be found by comparing the floorage areas of the offices and shops in the same street, applying a rate per square foot derived from an analysis of the rents of these shops, but allowing a certain deduction in that rate in respect that a tenant would not pay so high a rent for a subject fitted as an office as he would for a shop.[1]

2. Public Buildings.

1. *Theatres and Halls.*—In the case of shops, as we have seen, the question of profit has no bearing in fixing the annual value, for the profit effeirs to the goodwill, and has no connection with the heritable subject. But in the case of theatres and halls—buildings adapted for a particular purpose only—the question of profits is relevant in fixing their value. Where possible, comparison should be made with similar halls or theatres actually let; the method employed is to compare the seating accommodation. Comparison by proportionate rates on floorage areas is misleading.[2] Failing comparison, the revenue principle should be used. Evidence of increased attendance and higher profits will justify an increase in the annual value,[3] and the revenue-producing

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[7] *Glasgow Parish Council* v. *Assessor for Glasgow*, 1914 S.C. 651; (No. 320); 51 S.L.R. 148; 1913, 2 S.L.T. 435.

[8] *Jenner & Co.* v. *Assessor for Edinburgh*, 1908 S.C. 601; (No. 255); 45 S.L.R. 493; 15 S.L.T. 917.

[9] *Glasgow Parish Council* v. *Assessor for Glasgow*, *supra; St. Cuthbert's Co-operative Association* v. *Assessor for Edinburgh*, 1896, 23 R. 681; (No. 173); 33 S.L.R. 487; 3 S.L.T. 278.

[1] *North British and Mercantile Insurance Co.* v. *Assessor for Edinburgh*, 1908 S.C. 601; (No. 256); 45 S.L.R. 493; 15 S.L.T. 917; cf. same parties, 1910 S.C. 814; (No. 267); 47 S.L.R. 368; 1910, 1 S.L.T. 169.

[2] *Supreme Grand Royal Arch Chapter of Scotland* v. *Assessor for Edinburgh*, 1911 S.C. 962; (No. 286); 48 S.L.R. 375; 1911, 1 S.L.T. 227.

[3] *Howard & Wyndham* v. *Assessor for Edinburgh*, 1920 S.C. 502; (No. 363); 57 S.L.R. 246; 1920, 1 S.L.T. 195.

capacity of the premises should always be ascertained as a check on the comparative principle.[4]

2. *Schools.*—Schools, like theatres, are buildings adapted to one particular purpose, and unusable for any other purpose. Comparison, therefore, with similar schools actually let will fix the annual value. But it is unusual to find such a similar school. Hence the assessor must fall back on some other method of assessment. In the case of schools, unlike theatres, profits will have little bearing upon the value of the lands and heritages, and the revenue principle cannot consequently be applied. Assessors are therefore driven to the contractor's principle applied in a particular way. The assessor must find some school recently assessed which belongs to the same grade as the school in question. He must then ascertain the capital cost of the site and buildings of the former, and the number of pupils it is intended to accommodate, and from this to ascertain the cost per pupil space. By multiplying this rate by the number of pupils in the school which he is assessing, he finds its capital cost from which he can ascertain the annual value.[5] Probably the scale of fees paid is a factor to be taken into consideration.[6] Structural value is misleading, since one school might be old and its structure antiquated and costly and out of all proportion to its use as a school; hence pupil space is the medium of comparison. The estimated feuing value of playing grounds should not be considered, since the present value of the playing grounds lies solely in their being an adjunct of the school.[7]

3. *Hotels and Public-houses.*—Here, again, where possible, comparison with similar subjects in similar conditions should be adopted. In the case of hotels this is comparatively simple, but where it is not possible other principles must be appealed to, though no one principle can be conclusive.[8]

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[4] *Supreme Grand Royal Arch Chapter of Scotland* v. *Assessor for Edinburgh, supra;* cf. *Blyth Hall Trustees* v. *Assessor for Fife*, 1883, 10 R. 659; (No. 29); 20 S.L.R. 433.

[5] *Merchant Company Education Board* v. *Assessor for Edinburgh*, 1911 S.C. 948; (No. 284); 48 S.L.R. 387; 1911, 1 S.L.T. 233; *St. George's School* v. *Assessor for Edinburgh*, 1916 S.C. 675; (No. 338); 53 S.L.R. 487; 1916, 1 S.L.T. 99.

[6] *St. George's School* v. *Assessor for Edinburgh, supra.*

[7] *Merchant Company Education Board* v. *Assessor for Edinburgh, supra.*

[8] *North British Railway Co.* v. *Assessor for Edinburgh*, 1905, 7 F. 435; (No. 239); 42 S.L.R. 508; 12 S.L.T. 859; cf. same parties, 1911 S.C. 939;

The principles which, according to the cases, are appropriately employed in order to assist the ascertainment of the true annual vale are (1) comparison, after all due allowance, with other similar hotels, either on the basis of floorage space or on the basis of number of bedrooms or both; and (2) the earning capacity of the hotel in question.[9] On the whole there is perhaps a preference for the results obtained by the revenue principle.[1]

In public-houses, as in hotels, where possible, the principle of comparison should be employed. In the absence of further particulars it is the only way.[2] But it is frequently misleading, as size is often in no way proportionate to value, and other considerations (such as an increased licence duty) may make comparison of little assistance.[3] Where the comparative method is impossible, other principles have to be applied,[4] and the principle which would be most suitable to public-houses is the revenue principle. "The volume of business done is the very first thing that a tenant proposing to make an offer for such a house would take into consideration."[5] The publican may himself produce a statement of business done,[6] or the assessor is probably entitled to demand a comparative statement of drawings for the last three years.[7]

Statutory changes, such as the increase of licence duty imposed by the Finance Act,[8] establish a *prima facie* case for reduction of the valuation, and therefore put upon the assessor the onus of proving no diminution;[9] in the case of grocer's premises the same rule applies.[1] It does not, however, apply

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(No. 280); 48 S.L.R. 369; 1911, 1 S.L.T. 203; *Nordrach on Dee Sanatorium, Ltd.* v. *Assessor for Kincardine*, 1905, 7 F. 419; (No. 235); 42 S.L.R. 503; 13 S.L.T. 23.

[9] See *North British Railway Co.* v. *Assessor for Edinburgh*, 1911 S.C. 939, *supra*, at p. 943.

[1] *Philp* v. *Assessor for Rothesay*, 1888, 15 R. 627; (No. 87); 25 S.L.R. 462.

[2] *Haggart* v. *Assessor for Leith*, 1912 S.C. 784; (No. 298); 49 S.L.R. 163; 1911, 2 S.L.T. 502.

[3] *Scouller* v. *Assessor for Glasgow*, 1912 S.C. 757; (No. 297); 49 S.L.R. 152; 1911, 2 S.L.T. 491.

[4] *Noble* v. *Assessor for Leith*, 1899, 1 F. 584; 36 S.L.R. 599.

[5] Per Lord Macnaghten in *Cartwright* v. *Sculcoates Union*, [1900] A.C. 150, at p. 153, approved of in *Haggart* v. *Assessor for Leith*, *supra*.

[6] As in *Haggart* v. *Assessor for Leith*.

[7] See Lord Johnston in *Scouller* v. *Assessor for Glasgow*, 1912 S.C. 757, *supra*, at p. 759.

[8] Finance Act, 1910, sec. 43.

[9] *Deards* v. *Assessor for Edinburgh; Clark* v. *Assessor for Edinburgh*, 1911 S.C. 918; (No. 273); 48 S.L.R. 360; 1911, 1 S.L.T. 148.

[1] *Robertson* v. *Assessor for Perth*, 1912 S.C. 761; (No. 295 and 296); 49 S.L.R. 154; 1911, 2 S.L.T. 460.

to distilleries.[2] And a statutory curtailment of business hours under the Temperance (Scotland) Act, 1913, establishes no such presumption.[3] But if the publican refuses to produce at the request of the assessor a comparative statement of his drawings, he cannot avail himself of this presumption.[4] Where, however, there is an onus on the assessor, and he fails to discharge it, the valuation falls to be decreased by half the increase in the duty.[5] It is to be noted that where a *bona fide* rent is paid no reduction for increased licence duty is competent; hence the question can only arise where the rent does not represent the fair annual value. But where the rent is not *bona fide,* then an increased licence duty raises a *prima facie* case for reduction in the case of a tenant-occupier as well as of a proprietor-occupier.[6]

4. *Hospitals and Asylums.*—As in hotels, here also no fixed principle can be employed, and each case must be dealt with on its own merits. The same rate cannot be employed for large and small, antiquated and modern. The aim is to ascertain what a hypothetical tenant would be willing to pay for the subject. Hence, in the case of public institutions the value should be taken to be what a public body bound to provide accommodation for that purpose in its district would give for the accommodation it needs,[7] while in the case of a private institution the measure is what a hypothetical tenant rather than a public body would give.[8] In effect this means a slightly lower valuation in the case of private institutions. In these circumstances, illustrations are perhaps of little practical use except in so far as indicating the lines upon which assessment should proceed.

As in the case of schools, the unitary method by comparison has been adopted in hospitals and asylums, the medium of comparison being that element which would most of all appeal to a hypothetical tenant—the number of beds.[9]

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[2] *North British Distillery Co.* v. *Assessor for Edinburgh,* 1911 S.C. 927; (No. 281); 48 S.L.R. 365; 1911, 1 S.L.T. 144.

[3] *Maxwell* v. *Assessor for Galashiels,* 1915 S.C. 765; (No. 333); 52 S.L.R. 117; 1915, 1 S.L.T. 18.

[4] *Scouller* v. *Assessor for Glasgow, supra.*

[5] *Deards* v. *Assessor for Edinburgh,* 1911 S.C. 918, *supra.*

[6] *Mark* v. *Assessor for Edinburgh; Scott* v. *Assessor for Edinburgh,* 1911 S.C. 974; (No. 278); 48 S.L.R. 379; 1911, 1 S.L.T. 241.

[7] *Barony Parochial Board,* 1877, 4 R. 1149; (No. 122).

[8] *Glasgow Abstainers' Union* v. *Assessor for Argyllshire,* 1906, 8 F. 500; (No. 244); 43 S.L.R. 320; 13 S.L.T. 765.

[9] *Barony Parochial Board,* 1877, 4 R. 1149; (No. 122); (a lunatic asylum at £4 per bed).

But this method of valuation will not be closely adhered to. It will not be regarded, for instance, when the chapel is used as a temporary sleeping-place for additional inmates.[1] Where the asylum is built on the villa system a higher rent can be expected, and therefore £5 per bed is reasonable.[2] Where a "poor" convalescent home had for years been assessed at the rate of £2 a bed, this was a reasonable rate.[3] £3 per bed has also been regarded as fair.[4] But this method of valuation is not to be the sole one. The contractor's principle should be applied as well in order to check the result obtained by the comparative unitary method, either in the form of structural cost[5] or cost of erection;[6] two per cent. on the cost of erection is a fair rate.[7] Comparison with similar institutions elsewhere, usually impossible or misleading, has, however, been approved in one case.[8] As in the case of other subjects, the assessor is not entitled to regard restrictions imposed by private individuals over property placed on trust.[9]

3. Factories.

All the principles of valuation above dealt with apply within this category, and to ascertain which principle should be applied to any particular subject it is necessary to note more particularly the nature of the factory or industrial undertaking. Broadly, it may be said that, where possible, the comparative principle should be employed. Failing that, and an exact comparison is usually very difficult, in the ordinary case the contractor's principle is the correct one. This generalisation, however, does not go far enough, and it is necessary to examine the various classes of industrial undertakings.

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[1] *Melrose Burgh Commissioners* v. *Roxburgh, Berwick, and Selkirk District Lunacy Board*, 1898, 25 R. 586; (No. 185); 35 S.L.R. 662.

[2] *Aberdeen District Lunacy Board* v. *Assessor for Aberdeenshire*, 1907 S.C. 737; (No. 247); 44 S.L.R. 429; 14 S.L.T. 792. This case gives a summary of the various rates in recent assessments.

[3] *Glasgow Abstainers' Union* v. *Assessor for Argyllshire*, 1906, 8 F. 500; (No. 244); 43 S.L.R. 320; 13 S.L.T. 765.

[4] *Glasgow Association for the Relief of Incurables* v. *Assessor for Dumbartonshire*, 1907 S.C. 769; (No. 249); 44 S.L.R. 441; 14 S.L.T. 878.

[5] *Govan District Lunacy Board* v. *Assessor for Renfrewshire*, 1899, 1 F. 59; (No. 193); 36 S.L.R. 603.

[6] *Glasgow Abstainers' Union* v. *Assessor for Argyllshire*, *supra*.

[7] See table in *Aberdeen District Lunacy Board* v. *Assessor for Aberdeenshire*, 1907 S.C. 737, *supra*, at 740.

[8] *Directors of Murray's Royal Lunatic Asylum*, 1875, 4 R. 1145; (No. 112).

[9] *Glasgow Abstainers' Union* v. *Assessor for Argyllshire*, *supra*.

In all factories and mills where the subjects have recently been sold, the price will be a useful guide for the annual value. Eight and a half per cent. of the purchase price of a grain mill[1] and seven and a half per cent. on that of a flax mill, deducting the value of moveable machinery and adding the feu-duty,[2] have been regarded as fair estimates of the annual value. The sale must, however, have been in the open market.[3]

Failing recent sales, the principle of comparison is to be employed. But this principle in the strict sense will not often be applicable, since it presupposes a similar kind of subject in similar conditions. In certain concerns, however, it has been employed—*e.g.*, a distillery,[4] where the basis of comparison was mashing capacity, though this was not favourably regarded in the later case of *North British Distillery Co.* v. *Assessor for Edinburgh.*[5] In most cases there is no similar undertaking to compare.

Failing the comparative method, the assessor must fall back on the contractor's principle, which in subjects of this class is the normal method employed. We find the contractor's principle applied to a bakery,[6] to an ordinary factory,[7] to a linen manufactory,[8] to oil works,[9] to a paper mill,[1] to spinning mills,[2] and to steel works.[3] The contractor's principle falls now to be applied in the way laid down in the recent cases of *Guardbridge Paper Co.* v. *Assessor for Fife, supra*, and *G. & J. Weir* v. *Assessor for Glasgow*.[4]

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[1] *Thomson,* 1871, 11 M. 984; 44 J. 431; 9 S.L.R. 444.

[2] *Andrew Lowson, Ltd.* v. *Assessor for Arbroath,* 1901, 3 F. 466; (No. 212); 38 S.L.R. 496; 8 S.L.T. 470.

[3] *Craiks, Ltd.* v. *Assessor for Forfar,* 1909 S.C. 658; (No. 262); 46 S.L.R. 438; 1909, 1 S.L.T. 269.

[4] *Assessor for Argyllshire* v. *Islay Distillery,* 1884, 11 R. 841; (No. 53); 21 S.L.R. 563.

[5] 1890, 17 R. 845; (No. 112); 27 S.L.R. 617.

[6] *M'Vitie* v. *Assessor for Edinburgh,* 1898, 25 R. 601; (No. 190); 35 S.L.R. 666; 5 S.L.T. 385.

[7] *Wallace, Scott & Co.* v. *Assessor for Glasgow,* 1916 S.C. 670; (No. 344); 53 S.L.R. 484; 1916, 1 S.L.T. 70.

[8] *Shields* v. *Perth Assessor,* 1875, 4 R. 1146; (No. 113).

[9] *Oakbank Oil Co.* v. *Assessor for Midlothian,* 1902, 4 F. 520; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471.

[1] *Cowan & Sons* v. *Assessor for Midlothian,* 1894, 21 R. 812; (No. 160); 31 S.L.R. 733; 2 S.L.T. 48; and *Guardbridge Paper Co.* v. *Assessor for Fife,* 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360; though cf. *Annandale & Son,* 1867, 11 M. 977; (No. 54).

[2] *Webster & Sons* v. *Assessor for Arbroath,* 1908 S.C. 613; (No. 258); 45 S.L.R. 508; 15 S.L.T. 996.

[3] *Colville & Sons* v. *Assessor for Lanarkshire,* 1922 S.C. 460; (No. 378); 59 S.L.R. 347; 1922 S.L.T. 294.

It is to be observed that Lord Hunter in the case of *Guardbridge Paper Co.* v. *Assessor for Fife*,[5] expressed the opinion that " in the case of buildings which are not erected to be let, but in order that a particular business may be carried on in them, the method of comparison is no longer legitimate or in many cases possible. The problem with which the assessor is then faced in ascertaining annual value can be satisfactorily solved only on a consideration of the different elements which a hypothetical tenant might be expected to take into account. He would naturally ask, What volume of business had been carried on for a period of years, and what profits may be expected on such business? " It is an innovation to introduce the revenue principle to subjects of this class, and was opposed by Lord Salvesen.[6]

It is of no importance that part of the factory is not at present in use. Hence, where one of six blast furnaces is not in use,[7] or where even repairs are necessary before it can be put in use,[8] the undertaking should be valued as if all the furnaces were being employed.

4. Public Utility Undertakings.

1. *Gas and Electricity Undertakings.*—At one time subjects of this class were run as a private enterprise with a view to making profit. In these circumstances there was ample justification for the application of the contractor's principle.[1] At the present day, however, such undertakings are almost always monopolies, established as a public service, and frequently incapable of making profits. In these circumstances

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[4] 1927 S.C. 476; (No. 422); 1927 S.L.T. 261.

[5] 1921 S.C. 634, *supra*, at 649.

[6] Compare the cases of *Oakbank Oil Co.* v. *Assessor for Midlothian*, 1902, 4 F. 520; (No. 222); 39 S.L.R. 581; 9 S.L.T. 471; and *North British Distillery Co.* v. *Assessor for Edinburgh*, 1890, 17 R. 845; (No. 112); 27 S.L.R. 617; overruling *Sheriff* v. *Assessor for Argyllshire*, 1885, 12 R. 919; 22 S.L.R. 608; in both of which the revenue principle was declared not to be appropriate to this class of subject.

[7] *Addie*, 1868, 11 M. 979; (No. 61).

[8] *Carnbroe Ironworks*, 1868, 11 M. 980; (No. 62).

[1] See opinion of Lord Lee, differing from Lord Fraser, in *Assessor for Falkirk* v. *Falkirk Gas Co.*, 1883, 10 R. 651; (No. 28); 20 S.L.R. 427; followed in *Edinburgh Gas Light Co.* v. *Assessor for Leith*, 1887, 14 R. 583; (No. 80); 24 S.L.R. 420; and more guarded opinions in *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891.

it is well established that they are to be assessed on the revenue principle. This principle has in many cases been held applicable to gas undertakings, whether carried on by statutory commissioners[2] or by a private company,[3] to electricity undertakings whether belonging to a trading company[4] or to a local authority,[5] and to a hydro-electric station.[6]

For details as to the application of the revenue principle, see *supra*, page 85.

It should be noted particularly in this class of subject that pipes and mains are, of course, included in the undertaking, and that a deduction falls to be made for renewals of pipes and mains. Where pipes are separately entered in a parish other than that in which the undertaking is situated, an apportionment of value must be made between the two parishes. This is always done by the relative cost of the works in the two parishes. If for any reason the contractor's method is more appropriate, then the capital value of the pipes is found by adding the cost of the pipes to the wayleave, or, if none, to an estimate of the wayleave.[7] The cost of the pipes, therefore, and any wayleave actually paid is the basis of value for the separate entry of the pipes.[8] Five per cent. of the cost of construction is an appropriate figure to employ.[9] This value must be put upon the pipes whether or not the undertaking is *de facto* yielding any revenue at all.[10]

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[2] *Dundee Gas Commissioners* v. *Assessor for Dundee*, 1881, 9 R. 1240; (No. 1); *Edinburgh and Leith Gas Commissioners* v. *Assessor for Edinburgh*, 1909 S.C. 664; (No. 264); 46 S.L.R. 442; 1909, 1 S.L.T. 307; 1912 S.C. 790; (No. 304); 49 S.L.R. 311; 1912, 1 S.L.T. 132; 1916 S.C. 667; (No. 340); 53 S.L.R. 481; 1916, 1 S.L.T. 69.

[3] *Assessor for Falkirk* v. *Falkirk Gas Co.*, 1883, 10 R. 651; (No. 28); 20 S.L.R. 427, by Lord Fraser, differing from Lord Lee; *Edinburgh Gas Light Co.* v. *Assessor for Leith*, 1887, 14 R. 583; (No. 80); 24 S.L.R. 420; *Kinross and Milnathort Gas Light Co.* v. *Assessor for Kinross-shire*, 1890, 17 R. 850; (No. 110); 27 S.L.R. 631; *Kirkcaldy Gas Light Co.* v. *Assessor for Kirkcaldy*, 1905, 7 F. 430; (No. 238); 42 S.L.R. 510; 12 S.L.T. 844; *Melrose Gas Co.* v. *Assessor for Roxburghshire*, 1908 S.C. 600; (No. 253); 45 S.L.R. 500; 15 S.L.T. 892; *Bellshill Gas Co.* v. *Assessor for Lanarkshire*, 1909 S.C. 652; (No. 260); 46 S.L.R. 432; 1909, 1 S.L.T. 228; *Cowdenbeath Gas Co.* v. *Assessor for Fifeshire*, 1924 S.C. 639; (No. 393); 61 S.L.R. 246; 1924 S.L.T. 270; *Stranraer Gas Co.* v. *Assessor for Stranraer*, 1924 S.C. 651; (No. 394); 61 S.L.R. 253; 1924 S.L.T. 277.

[4] *Hawick Parish Council* v. *Urban Electric Supply Co.*, 1906, 8 F. 504; (No. 246); 43 S.L.R. 448; 13 S.L.T. 931; *Coatbridge and Airdrie Electric Supply Co.* v. *Assessor for Coatbridge*, 1907 S.C. 780; (No. 250); 44 S.L.R. 454; 14 S.L.T. 937; *Arbroath Electric Light and Power Co.* v. *Assessor for Arbroath*, 1915 S.C. 816; (No. 335); 52 S.L.R. 252; 1915, 1 S.L.T. 53.

[5] *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891; *Aberdeen Magistrates* v. *Assessor for Aberdeen*, 1927 S.C. 458; (No. 426); 1927 S.L.T. 158.

[6] *Lanarkshire Hydro-Electric Power Co.* v. *Assessor for Lanarkshire*, February, 1930, unreported.

[7] *Edinburgh Parish Council* v. *Assessor for Edinburgh*, 1906, 8 F. 521; (No. 241); 43 S.L.R. 435; 13 S.L.T. 891.

[8] *Edinburgh Parish Council* v. *Assessor for Edinburgh*, *supra*.

2. *Waterworks.*—Like gas and electricity undertakings, these subjects are run as a public service; they are monopolies, and the revenue principle is accordingly the correct one to apply.[1] Details of the application of the revenue principle are given on page 85. For the valuation of pipes attached to the undertaking, see *supra,* page 40. In special circumstances unfinished waterworks did not fall to be entered in the roll.[2]

3. *Sewers.*—These subjects are assessable whether owned privately[3] or by a public authority,[4] and the method of valuation is the contractor's principle. In one case the annual value was fixed at five per cent.[5] and in another at three and a quarter per cent. on the capital cost.[6] In the latter case, to the sum arrived at by taking a percentage on the capital cost, there fell to be added landlord's rates and average annual maintenance charges, together with such a percentage on the cost of the sewers as paid annually into a sinking fund would provide for their complete renewal in 100 years. Where sewage works and pipes served exclusively a colony of workmen's houses, and the tenants had a right under their lease to sewage facilities, and these facilities were included in the rents paid, the works and pipes probably should not enter the roll at all, and are certainly of no value.[7]

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[9] *Magistrates of Dundee* v. *Assessor for Forfarshire,* 1912 S.C. 848; (No. 310); 49 S.L.R. 333; 1912, 1 S.L.T. 175.

[10] *Magistrates of Dundee* v. *Assessor for Forfarshire, supra.*

[1] *Dalbeattie Police Commissioners* v. *Assessor for Kirkcudbrightshire,* 1882, 10 R. 23; (No. 20); 19 S.L.R. 568; *Inspector of the City Parish of Glasgow* v. *Assessor of Railways and Canals,* (O.H.) 1885, 24 S.L.R. 3; *Magistrates of Glasgow* v. *Inspector of Poor of Glasgow,* (O.H.) 1884, 12 R. 3; 22 S.L.R. 10; *Aberdeen Magistrates* v. *Assessor of Railways,* (O.H.) 1919 S.C. 739; 56 S.L.R. 480; 1919, 2 S.L.T. 33; *Denny and Dunipace Magistrates* v. *Assessor for Stirlingshire,* 1927 S.C. 464; (No. 420); 1927 S.L.T. 146; *Assessor for Fife* v. *Dunfermline District Committee,* 1929 S.C. 304; (No. 449); 1929, S.L.T. 281.

[2] *Avondale Parish Council* v. *Middle Ward District Committee of Lanarkshire,* 1898, 25 R. 594; (No. 188); 35 S.L.R. 668; 5 S.L.T. 384.

[3] *Inveresk Paper Co.* v. *Assessor for Musselburgh,* 1907 S.C. 747; (No. 248); 44 S.L.R. 433; 14 S.L.T. 790.

[4] *Assessor for Aberdeen* v. *Magistrates of Aberdeen,* 1913 S.C. 712; (No. 316); 50 S.L.R. 244; 1913, 1 S.L.T. 38.

[5] *Magistrates of Dundee* v. *Assessor for Forfarshire,* 1912 S.C. 848; (No. 310); 49 S.L.R. 333; 1912, 1 S.L.T. 175.

[6] *Water of Leith Sewerage Commissioners* v. *Assessor for Midlothian,* 1914 S.C. 664; (Nos. 323 and 324); 51 S.L.R. 177; 1914, 1 S.L.T. 24.

[7] *Assessor for Dumbartonshire* v. *William Baird & Co.,* 1926 S.C. 479; (No. 412); 1926 S.L.T. 129.

5. Parks and Recreation Grounds.

1. *Public Parks.*—For some time public parks had been assessed at a merely nominal value,[8] following English authorities.[9] The Scots practice was, however, overruled by the case of *Glasgow Parish Council* v. *Assessor for Glasgow*,[1] in which it was decided that parks both within and without the limits of the city owned and maintained by the Corporation, in terms of certain statutes empowering the laying out and maintenance of parks on land already acquired, were to be assessed at the rent which a hypothetical tenant might be expected to give for them in their actual condition irrespective of any limitations in their use in the hands of their present proprietors. And the same decision was come to where the magistrates of a burgh acting under statutory powers obtained a forty years' lease of a piece of ground, laid it out as a golf course for the inhabitants, but made no profit on it.[2]

2. *Recreation and Sports Grounds.*—Where the ground has been laid out and buildings erected as a commercial venture, as in the case of a greyhound racing track, the contractor's principle is applicable,[3] but where the subjects are erected for the encouragement of sport, the method of comparison is preferable.[4]

6. Sporting Subjects.

1. *Shootings* (*Unlet*).—Under the Lands Valuation Act, 1854, these subjects were only assessable if let. By the Sporting Lands Rating (Scotland) Act, 1886, these subjects became assessable whether let or not. The question has been raised whether independently of their sporting value lands should also be assessed for their grazing value. Probably lands *de facto* used for one and not both purposes should only be assessed for that one.[5] Though the practice in assessing

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[8] *Parish Council of Edinburgh* v. *Assessor for Edinburgh*, 1910 S.C. 823; (No. 269); 47 S.L.R. 414; 1910, 1 S.L.T. 290.

[9] *Lambeth Overseers* v. *London County Council*, [1897] A.C. 625.

[1] 1912 S.C. 818; (No. 306); 49 S.L.R. 315; 1912, 1 S.L.T. 157, 171.

[2] *Edinburgh Parish Council* v. *Magistrates of Leith*, 1912 S.C. 812; (No. 308); 49 S.L.R. 336; 1912, 1 S.L.T. 173.

[3] *Scottish Greyhound Racing Co.* v. *Assessor for Glasgow*, 1929 S.C. 285; (No. 447); 1929 S.L.T. 197.

[4] *Scottish Rugby Union* v. *Assessor for Edinburgh*, 1926 S.C. 495; (No. 417); 1926 S.L.T. 169.

[5] See *Lord Middleton* v. *Assessor for Ross-shire*, 1882, 10 R. 28; (No. 21); 19 S.L.R. 564; *Leith* v. *Leith and Others*, 1862, 24 D. 1059; *Maitland*,

deer forests is to value them on the basis of a certain sum per stag killed in the season, this practice is not binding: there is no one principle which must be applied in assessing such subjects.[6] Where owing to the war shootings could not be let, the assessor was entitled to take half of the previous value.[7] But this is not a hard and fast rule.[8]

2. *Fishings.*—Salmon fishings have always been assessable.[9] Trout fishing is usually let along with shootings, and is therefore not separately assessed. If a proprietor, however, keeps valuable fishing in his own hands and preserves it, it will be entered separately in the valuation roll. When the fishing is in streams and ornamental waters, and is not preserved, it is not usual to value it at all.[1] Oysters are not assessable unless a mere grant is made by the Crown to dredge for oysters within a specified area.[2] An obligation not to net salmon, even though improving the value of the fishing otherwise, is not separately assessable where the fishings are otherwise *bona fide* let;[3] and where the removal of nets does not improve the rod fishing, then a lease which allows a reduced rent for this will be disregarded.[4] So, too, fishings in a loch not let or occupied as a separate subject and which are valueless need not be assessed.[5] In *Dee Salmon Fisheries Co.* v. *Assessor for Aberdeen*,[4] however, the qualifying words " from which revenue is actually derived " in sec. 42 of the 1854 Act were held not to apply to fishings. Observations on the method of dealing with trout fishing by the assessor will be found in *Don District Fishery Board* v. *Burnett*.[6]

1889; (No. 100); *Assessor for Argyllshire* v. *Stuart*, 1888, 15 R. 588; (No. 84); 25 S.L.R. 315.

[6] *Marquis of Breadalbane* v. *Assessor for Argyllshire*, 1890, 17 R. 837; (No. 111); 27 S.L.R. 635.

[7] *Perrins* v. *Assessor for Ross-shire*, 1918 S.C. 602; 55 S.L.R. 258.

[8] *Grant & Mackintosh* v. *Assessor for Inverness-shire*, 1918 S.C. 620; (No. 352); 55 S.L.R. 244; 1918, 1 S.L.T. 146.

[9] *Leith* v. *Leith and Others*, 1862, 24 D. 1059.

[1] Evidence before Committee on Rating and Valuation (Scotland), 1888, Qs. 3114, 3478.

[2] *Wallace* v. *Assessor for Wigtonshire*, 1902, 4 F. 515; (No. 218); 39 S.L.R. 570; 9 S.L.T. 515.

[3] *Assessor for Elginshire* v. *Duke of Richmond and Gordon*, 1905, 7 F. 424; (No. 236); 42 S.L.R. 512; 12 S.L.T. 831.

[4] *Dee Salmon Fisheries Co.* v. *Assessor for Aberdeen*, 1915 S.C. 790; (No. 337); 52 S.L.R. 178; 1912, 2 S.L.T. 457.

[5] *Assessor for Aberdeenshire* v. *Lady Cowdray*, 1911 S.C. 970; (No. 287); 48 S.L.R. 395; 1911, 1 S.L.T. 231.

[6] 1918 S.C. 37; 55 S.L.R. 90; 1917, 2 S.L.T. 183.

3. *Woods.*—Where they are entered separately, an estimate must be made of their annual value as grazings;[7] or, if they are planted to raise successive crops from the same roots, an estimate of the annual value must be made from the actual or expected return over a period of years.

7. Miscellaneous.

1. *Piers and Harbours.*—Piers and harbours have always been regarded as heritable subjects which fall to be entered in the valuation roll, and their annual value has always been estimated on the revenue principle. This principle applies equally to harbours constituted by charters and under the General Acts. The contractor's principle is not suitable,[8] though in one case the contractor's principle was used but not expressly approved as a check on a figure otherwise obtained.[9] The general characteristics of the revenue principle have already been discussed,[10] and apply to the valuation of piers and harbours. It is only necessary here to note a few peculiarities of these subjects.

(i) *Waterways.*—An incorporeal right of waterway is not assessable, and in respect of the waterways a proportion of the harbour dues varying with the circumstances of each case falls to be excluded from the revenue of the undertaking.[1]

(ii) *Dredging.*—The expense of dredging the waterways and accesses to the docks is expenditure which the landlord would be called upon to pay, but the expense of dredging inside the docks is tenant's expenditure, and can be deducted from gross revenue.[2]

(iii) *Carting.*—Dues received for carting goods to and off the piers do not fall to be reckoned as revenue from the piers.[3]

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[7] *Allan* v. *Dunlop*, 1858, 20 D. 1354; (No. 4).

[8] *Assessor for Lanarkshire* v. *Clyde Navigation Trustees*, 1908 S.C. 620; (No. 257); 45 S.L.R. 501; 15 S.L.T. 970; and *Burntisland Harbour Commissioners* v. *Assessor for Burntisland*, 1921 S.C. 609; (No. 377); 58 S.L.R. 294; 1921, 1 S.L.T. 263.

[9] *Galloway Saloon Steam Packet Co.* v. *Assessor for Portobello*, 1895, 22 R. 584; (No. 165); 32 S.L.R. 427; 2 S.L.T. 569.

[10] *Supra*, p. 85.

[1] *Clyde Navigation Trustees* v. *Assessor for Lanarkshire*, 1910 S.C. 840; (No. 271); 47 S.L.R. 384; 1910, 1 S.L.T. 265; see also *Inspector of Poor for Dundonald* v. *Irvine Harbour Trustees*, 1893, 30 S.L.R. 660; 1 S.L.T. 31; (No. 151).

[2] *Leith Docks Commissioners* v. *Assessor for Leith*, 1907 S.C. 751; (No. 252); 44 S.L.R. 444; 14 S.L.T. 930; *Clyde Navigation Trustees* v. *Assessor for Lanarkshire*, *supra*. See "Revenue Principle," *supra*, p. 85.

[3] *Hunter's Trustees* v. *Assessor for Argyllshire*, 1882 10 R. 36; (No. 24); 20 S.L.R. 435; 1883, 10 R. 666; (No. 34); 20 S.L.R. 435.

2. *Cemeteries.*—These are valued not at the rent at which they might let as agricultural land, but as used by the company in charge of them.[4] Hence, where the subjects are administered with a view to making profit, one-half of the net profits is a reasonable sum to represent the annual value.[5] In another case one-third of the net profits was considered a reasonable proportion as representing the annual value. The obligation in respect of future maintenance is a factor which is taken into account in fixing this proportion of revenue, and should not be allowed as a tenant's deduction.[6] The value of an exhausted cemetery is nil.[7] Where the cemetery is owned by a statutory body under the Burial Grounds (Scotland) Act, 1855, who in fact make no profit, though they have power to sell lairs and receive fees for interment, the cemetery must be regarded as having an annual lettable value, since it enables the magistrates to discharge a statutory duty,[8] and their annual value must be fixed by an application of the contractor's principle in a modified form. In one case the assessor took the extent of unoccupied ground which would be required for the next fifteen years, estimated its purchase price and cost of lay-out, and assessed the annual value at five per cent. on that capital sum. The Court considered that this method was in the circumstances the best available.[9] It should be noted that cemeteries became liable to local rates for the first time in 1926.[10]

3. *Garages.*—The value of a public garage which contains a number of seperate lock-ups for cars cannot be ascertained by adding together the rents obtained for the lock-ups, but falls to be ascertained by an application of the contractor's principle.[1]

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[4] *Craigton Cemetery Co.* v. *Assessor for Lower Ward of Lanarkshire*, 1889, 16 R. 802; (No. 98); 26 S.L.R. 527.

[5] *Aberdeen Cemetery Co.* v. *Assessor for Aberdeen*, 1891, 18 R. 936; (No. 124); 28 S.L.R. 619.

[6] *Sighthill Cemetery Co. and Craigton Cemetery Co. v. Assessor for Glasgow*, 1927 S.C. 485; (No. 427); 1927 S.L.T. 554; *Assessor for Aberdeen* v. *Aberdeen Cemetery Co.*, 1929 S.C. 275; (No. 444); 1928 S.L.T. 641.

[7] *Sighthill Cemetery Co. and Craigton Cemetery Co.* v. *Assessor for Glasgow, supra.*

[8] *Edinburgh Parish Council* v. *Edinburgh Magistrates*, 1912 S.C. 793; (No. 309); 49 S.L.R. 307; 1912, 1 S.L.T. 129.

[9] *Falkirk Parish Council* v. *Assessor for Stirlingshire*, 1928 S.C. 405; (No. 429); 1928 S.L.T. 217.

[10] Rating (Scotland) Act, 1926, sec. 11.

[1] *Broomhill Motor Co.* v. *Assessor for Glasgow*, 1927 S.C. 447; (No. 419); 1927 S.L.T. 189.

4. *Unfinished Buildings.*—An allowance should be made for the fact that a building is not yet ready for occupation, but this must depend upon the state of incompleteness.[2] The value must be that at which the subjects in their then unfinished condition would let in the market.[3] Where buildings are being demolished on a valuable site for the purpose of providing room for the erection of new premises, the site during the period of demolition has an annual value. In the *Bank of Scotland* case, where the demolition had begun by 28th May and had finished by 1st August, and as at 8th September the site had been excavated, the site was entered at approximately one-half of the previous rental.[4] Where old premises were being reconstructed, and the reconstruction was so extensive as to render the building incapable of occupation in the meantime, the valuation fell to be reduced.[5] The period in question is the year of valuation from Whitsunday to Whitsunday, and buildings therefore which in the ordinary course will be completed within the year must be valued as completed.[6]

5. *Unoccupied Subjects.*—A proprietor cannot, by refusing to occupy or let his property, enable it to escape valuation, and accordingly in the absence of evidence of value the magistrates have been held entitled to fix a reasonable rent by their local knowledge,[7] or evidence may be led to show the present value of the subjects, in which case the value is fixed accordingly.[8] If it is shown that the subjects are likely to remain permanently vacant, a nominal value will be put upon them.[9] But temporary absence of occupa-

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[2] See in the case of a dwelling-house *Paterson,* 1878, 9 R. 1237; (No. 135); and in the case of a factory *Schulze* v. *Assessor for Edinburgh,* 1910 S.C. 804; (No. 265); 47 S.L.R. 376; 1910, 1 S.L.T. 159.

[3] *Schulze* v. *Assessor for Edinburgh, supra.*

[4] *Assessor for Glasgow* v. *Bank of Scotland,* 1925 S.C. 548; (No. 409); 1925 S.L.T. 300; cf. *Union Bank of Scotland* v. *Assessor for Glasgow,* 1926 S.C. 500; (No. 416); 1926 S.L.T. 163.

[5] *Provincial Cinematograph Theatres* v. *Assessor for Glasgow,* 1925 S.C. 560; (No. 410); 1925 S.L.T. 294.

[6] *Guardbridge Paper Co.* v. *Assessor for Fife,* 1921 S.C. 634; (No. 367); 58 S.L.R. 425; 1921, 1 S.L.T. 360; cf. *Bouik's Trustee* v. *Assessor for Glasgow,* 1916 S.C. 686; (No. 342); 53 S.L.R. 490; 1916, 1 S.L.T. 80.

[7] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock,* 1898, 25 R. 1229; (No. 192); 35 S.L.R. 943; 6 S.L.T. 148.

[8] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock, supra.*

[9] *Burntisland Oil Co.* v. *Assessor for Fife,* 1895, 23 R. 683; (No. 174); 33 S.L.R. 488; 3 S.L.T. 279; cf. *Barbour,* 1878, 9 R. 1236; (No. 133); *Inland Revenue* v. *Mitchell Bros.,* 1930 S.N. 45; 1930 S.L.T. 311; D.A. 165.

tion for reasons of expediency is no ground for reducing the value,[1] though the value should be reduced if the proprietor shows that the subjects are incapable of being occupied without very considerable outlays being incurred,[2] or where it is shown that the machinery is old and out of date.[3] The decisions in *Home*[2] and *Barbour*[3] are based to some extent on the fact that not only are the premises unoccupied, but that they are unfit for occupation, which is itself ground for reducing the value. Where houses were declared unfit for occupation by the sanitary authorities, and the proprietors issued notices to quit, which were, however, ineffective owing to the terms of the Increase of Rent (Restrictions) Acts, the houses had to enter the roll.[4] The fact that there is a total prohibition against distilling for a temporary period does not reduce the annual value of distilleries.[5]

6. *Crown Lands.*—The Crown is not bound by any statute unless specifically mentioned. The Crown is not named in the Poor Law Act Amendment (Scotland) Act, 1845, and other Rating Acts, and accordingly is not rateable. Crown property should enter the roll, but its value should be nil. This exemption, however, only applies to property in the occupation of the Crown, or in that of persons using it exclusively in the service of the Crown. Tenants of Crown property are rateable like all other occupiers.[6] It is not sufficient that the property is occupied for public purposes unless these are such as are required and created by the Government and deemed to be part of the use and service of the Crown.[7] For this reason, buildings used for the purposes of the Royal Navy or the Army, or of the Post Office, for court-houses, for prisons, &c., are exempt, but public harbours[8] and University buildings[9] are not exempt.

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[1] *Fraser & Sons* v. *Assessor for Arbroath*, 1889, 16 R. 796; 26 S.L.R. 545.

[2] *Earl of Home* v. *Assessor for Dundee*, 1891, 18 R. 934; (No. 127); 28 S.L.R. 827.

[3] *Barbour, supra;* and cf. *Pumpherston Oil Co.* v. *Assessor for Linlithgowshire*, 1905, 7 F. 438; (No. 237); 42 S.L.R. 505; 12 S.L.T. 851.

[4] *Alexander's Trustees* v. *Assessor for Ayrshire*, 1922 S.C. 453; (No. 385); 59 S.L.R. 343; 1922 S.L.T. 275.

[5] *Bulloch, Lade & Co.* v. *Assessor for Argyllshire*, 1919 S.C. 478; (No. 357); 56 S.L.R. 119; 1919, 1 S.L.T. 56.

[6] *Mersey Docks and Harbour Board* v. *Jones*, 1865, 11 H.L.Cas. 443; 3 M. (H.L.) 102, note.

[7] *Clyde Navigation Trustees* v. *Adamson*, 1865, 3 M. (H.L.) 100.

[8] *Leith Dock Commissioners* v. *Miles*, 1866, 4 M. (H.L.) 14.

[9] *Greig* v. *University of Edinburgh*, 1868, 6 M. (H.L.) 97.

CHAPTER VII.

RAILWAYS AND CANALS.

Practice.—The valuation of railways and canals depends on separate provisions of the Valuation Acts, but, as these are in many respects similar to the provisions regarding the ordinary valuation roll, it is not intended to refer to them in detail. The need for differentiation in the mode of valuation was early recognised, for we find provisions in the first Valuation Act (1854) for the appointment of a separate assessor to deal with railways and canals and also certain water, gas, and other public utility undertakings, to which reference is made below.

(1) *The Assessor.*—The Assessor of Railways and Canals is appointed by the King, and his duty is to make up a valuation roll of all the lands and heritages in Scotland belonging to or leased by railway, canal, and certain other companies, and forming part of their undertakings.[1] These sections have been extended so as to include undertakings belonging to or leased or occupied by any corporation, burgh commissioners, trustees, or local authority.[2] The words "canal company" apply to a body of statutory commissioners who were charged with the administration of a canal when the Act was passed.[3] The term "railway" includes tramways.[4] The salary of the assessor and of any clerks whom he may be allowed to employ is fixed by the Secretary of State for Scotland. The total expenses of the assessor's office are defrayed annually by the railway and canal companies and other companies whose undertakings are valued by the assessor, each company paying a proportion corresponding to the annual value of its subjects as compared with the total value of all the undertakings dealt with by the assessor.[5] The assessor is

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[1] Secs. 20 to 29 of the 1854 Act.

[2] Sec. 7 of the 1894 Act.

[3] *Commissioners of the Caledonian Canal* v. *County Councils of Inverness-shire and Argyllshire*, 1894, 21 R. 1045; 31 S.L.R. 830; 2 S.L.T. 162.

[4] *Corporation of Glasgow* v. *Assessor of Railways and Canals*, (O.H.) 1911 S.C. 1364; 48 S.L.R. 4; 1910, 1 S.L.T. 383.

[5] Secs. 20 and 29 of the 1854 Act.

required before 15th March in every year to fix *in cumulo* the yearly rent of all lands and heritages belonging to each railway and canal company. (The method by which the *cumulo* yearly rent or value, after it has been fixed, is to be apportioned is detailed in sec. 22 of the 1854 Act, and set forth at p. 114.) He has also to fix the amount which would be required for the erection of stations, wharfs, docks, depots, counting-houses, and other places of business connected with each undertaking, including the *solum* on which they are erected.[6] For these purposes the assessor may call any persons as witnesses and examine them on oath. He may call upon any railway, canal, or other company for any detailed statements required by him for valuation purposes. Any books or vouchers may be called for, and, if any company wilfully refuses to furnish any required statement or to make a production, the company forfeits its right to appeal during the year of its refusal.[7]

(2) *The Valuation Roll.*—The roll must set forth in separate columns[8]:—

(1) The yearly rent or value of all the lands and heritages belonging to or leased by each railway and canal company, and forming part of its undertaking.
(2) The names of the parishes, counties, and burghs through which the line or canal route runs or in which its lands or heritages are situated.
(3) The length of its entire line or route and the portion thereof situated in each parish, county, burgh, or special district created under the Local Government (Scotland) Acts.
(4) The amount of cost of erecting its stations, &c., and other places of business.
(5) The proportion of such amounts expended in each parish, county, burgh, or other rating area.
(6) The yearly rent or value of the portion in each parish, county, burgh, &c., of the lands and heritages belonging to each railway and canal company.

It is optional for any water or gas company or other company having continuous lands and heritages, which are liable to be assessed in more than one parish, county, or burgh, to have these assessed by the Assessor of Railways and Canals.[9] If they desire to do so they must give intimation in writing at any time before 15th November previously[1] to the Sheriff of the county within which its lands and heritages or head office and place of business in Scotland are situated. The Sheriff makes public advertisement of the intimation, and he notifies the Assessor of Railways and Canals. After this has been done the Assessor of Railways and Canals is exclusively charged with the valuation of lands and heritages belonging to or leased by the company concerned.[9]

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[6] Sec. 21 of the 1854 Act, as amended by sec. 2 of the 1894 Act.
[7] Sec 26 of the 1854 Act.
[8] Sec. 21 of the 1854 Act.

The value of those portions of railways, canals, waterworks, gasworks, or other undertakings included within the limits of special districts in counties, or within burghs, towns, or populous places must be specified by the assessor, if he is required to do so, before 1st November.[2]

The valuation roll is open for inspection, and the assessor must, if required, produce a statement showing the principles and calculations on which the valuation is based.[3] Any parish, county, or burgh interested in any valuation may represent against it to the Lord Ordinary or the Sheriff under conditions similar to those under which an appeal is taken, and the company concerned in the valuation and the assessor are usually given an opportunity of answering the objections.[4] The roll must be authenticated by the signature of the assessor as soon as may be after 15th May, and is then in force from the year Whitsunday to Whitsunday. A certified extract is transmitted to the county clerk of each county and the town-clerk of each burgh in which any portion of a railway or other company's undertaking is situated, and is engrossed in the valuation roll of the county or burgh,[5] and deemed to be a part of such valuation roll.[6] The roll is periodically transmitted by the assessor to the General Register House for preservation.[7]

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[9] Sec. 23 of the 1854 Act.

[1] Sec. 2 of the 1894 Act.

[2] Sec. 5 of the 1867 Act; sec. 2 of the 1887 Act; sec. 4 of the 1894 Act; Local Government (Scotland) Act, 1894, sec. 45 (2).

[3] Sec. 6 of the 1867 Act.

[4] Sec. 25 of the 1854 Act.

[5] Under the Local Government (Scotland) Act, 1929, the word "burgh" now means "large burgh"; "small burghs," *i.e.*, those with a population under 20,000, being included in the county valuation rolls (secs. 2 and 4).

[6] Sec. 27 of the 1854 Act, as amended by sec. 5 of the 1894 Act.

[7] Sec. 28 of the 1854 Act.

(3) *Notice of Entry and Appeal.*—Before 15th March[8] the assessor must transmit to each railway, canal, or other company whose undertaking is valued by him a copy of every entry in the roll applicable to the company; and, if they consider themselves aggrieved by the valuation, they may obtain redress at the hands of the assessor before 8th April,[9] or they may lodge a note of appeal on or before 10th April[1] to the Lord Ordinary officiating on the Bills in the Court of Session, or, where the lands and heritages are all situated within one county, to the Sheriff of the county. The proceedings before the Lord Ordinary or the Sheriff are summary, and may be taken in Court or in chambers in such way as the judge may prescribe. The deliverance of the Court must be given by 15th May.[2] It is to be noted that in the case of railways and canals or other undertakings valued by the assessor there is no intermediate appeal from his decision to the Valuation Committee, the appeal being direct to the Lord Ordinary or the Sheriff, as the case may be, whose decision is final and not subject to review.[3]

Method of Valuation.—The assessor is directed in the first place to fix *in cumulo* the yearly rent or value, one year with another, of all lands and heritages belonging to or leased by each railway and canal company, and forming part of its undertaking.[4] In the case of railways and canals the first question, therefore, which arises is what is included in the undertaking?

Part of Undertaking.—All those premises and property owned or occupied by the company which are necessary for the ordinary conduct of its business form part of its undertaking. The stations of a railway company,[5] a railway bookstall in the occupation of a newsagent, who sold papers not only to passengers on the railway, but also to inhabitants of the town,[6] a tobacco stall,[7] are all part of the undertaking. On the other hand, hotels and refreshment rooms[8] are not included, nor are houses occupied by railway employees, whether beyond the railway fence,[9] or within the limits of a station.[1] Lands acquired for the purpose of a railway, but not so used, must be entered in the ordinary valuation roll at their ordinary lettable value.[2] A foreshore acquired for the purpose of a railway, but not used, and lying waste and unoccupied, is not regarded as part of the undertaking.[3] Advertising places and the cultivated banks or slopes of the railway form part of the undertaking,[4] but the interiors of the arches of a railway bridge let for stabling, stores, workshops, &c.,[5] and coal depots and auctioneers' stances and stables let by a railway company[6] do not fall to be valued as part of the railway undertaking. A railway station rented for more than twenty-one years[7] and a railway leased for 999 years[8] have been held to be part of the undertaking. Where a railway company are the owners of a dock undertaking, the entrance channel, a sea wall erected for the purpose of land reclamation, piers and jetties are part of the general undertaking of the railway company, and not part of the "docks."[9] Ferries owned by a railway company are valued on the mileage principle as part of the railway undertaking.[1]

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[8] Sec. 3 of the 1894 Act.

[9] Sec. 3 of the 1894 Act.

[1] Sec. 3 of the 1894 Act.

[2] Sec. 3 of the 1894 Act.

[3] Sec. 24 of the 1854 Act.

[4] Sec. 21 of the 1854 Act.

[5] *Edinburgh and Glasgow Railway Co.* v. *Adamson*, 1853, 15 D. 537; 2 Macq. 331.

[6] *Callander and Oban Railway* v. *Assessor for Oban*, 1888, 15 R. 634; (No. 90); 25 S.L.R. 464; *North British Railway Co.* v. *Greig*, 1866, 4 M. 645.

[7] *Glasgow Corporation* v. *North British Railway Co.*, (O.H.) 1899, 7 S.L.T. 9.

Fixing of Cumulo *Yearly Value.*—The valuation of the railway company's undertaking is to be made in the usual way, *i.e.*, the yearly value is the rent at which, one year with another, the undertaking might in its actual state be reasonably expected to let from year to year.[2] The method of valuation is not prescribed by statute, but the revenue principle, based on the net earning capacity of the line, is recognised by the Court as the proper one to apply. The gross revenue is first taken, and from this figure the tenant's working expenses are deducted, and from the net revenue thus obtained certain further deductions in the form of tenant's allowances fall to be made. The result is the gross annual value of the railway.[3] The working expenses and tenant's allowances are arrived at as follows:—

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[8] *Edinburgh and Glasgow Railway Co.* v. *Adamson, supra; North British Railway Co.* v. *Greig, supra;* but see *Police Commissioners of Oban,* 1885, 13 R. 339.

[9] *Caledonian Railway Co.*, 1872, 11 M. 988; (No. 89).

[1] *Dundee and Arbroath Joint Line,* 1883, 11 R. 396; (No. 38); 21 S.L.R. 540.

[2] *Glasgow and South-Western Railway Co.* v. *Assessor for Greenock,* 1898, 25 R. 1229; (No. 192); 35 S.L.R. 943; 6 S.L.T. 148.

[3] *Magistrates of Greenock* v. *Glasgow and South-Western Railway Co.,* (O.H.) 1899, 7 S.L.T. 9.

[4] *Highland Railway Co.* v. *Assessor of Railways,* 1862, 4 P.L.M. 603.

[5] *Glasgow and South-Western Railway Co.* v. *Assessor of Railways,* 1862, 5 P.L.M. 116.

[6] *Highland Railway Co.* v. *Assessor of Railways,* 1876, 4 P.L.M. 603.

[7] *Dempster* v. *Munro,* 1882, 12 P.L.M. 632.

[8] *Wallace* v. *Munro,* 1883, 12 P.L.M. 636.

[9] *Magistrates of Buckhaven* v. *North British Railway Co.,* (O.H.) 1915 S.C. 1128; 52 S.L.R. 709; 1915, 1 S.L.T. 454.

[1] Sec. 22 of the 1854 Act.

1. *Working Expenses.*—One-half of the cost of maintenance of the permanent way is deductible under this head. This does not include cost of repairs to stations, engine-houses, workshops, wharfs, docks, depots, counting-houses, and other places of business.[4] But under the term " permanent way " are included the lines, bridges, tunnels, fences and ditches, signals and apparatus connected therewith.[5] The expense of purchasing rails and chairs which were stored for future use is not included.[6] It was decided that the whole expenses of management and other expenses properly chargeable against revenue might also be deducted.[7] But in practice this allowance is always subject to the deduction of owner's local rates, feu-duties, and Parliamentary expenses.

2. *Tenant's Allowances.*—A statement of the several tenant's allowances granted by the Assessor of Railways and Canals to the former constituent railway companies in Scotland, down to and including the valuation year 1917-1918, will be found in " Armour on Valuation for Rating " (2nd Edn., page 344), and in a more detailed form in " Valuation of Property " (page 21), by Wm. Munro, a former Assessor of Railways and Canals. Since, however, the nature and scale of these allowances are regarded as out of date and are not likely to be repeated when next the Scottish railway valuations are computed in detail on the revenue principle, it is not deemed expedient to repeat them here. For a brief explana-

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[2] Sec. 6 of the 1854 Act.

[3] *Anderson* v. *Union Canal Co.*, 1847, 9 D. 402; *Edinburgh and Glasgow Railway Co.* v. *Adamson*, 1855, 17 D. 1007.

[4] Sec. 3 of the 1867 Act.

[5] Sec. 2 of the 1867 Act.

[6] *North British Railway Co.* v. *Wallace*, 1884, 12 R. 6; 22 S.L.R. 114.

[7] *Caledonian Canal Commissioners* v. *Assessor of Railways and Canals*, 1886, 24 S.L.R. 80.

tion of the present position of railway valuation in Scotland, reference is made to the footnote hereto.[8]

Having ascertained the *cumulo* value, the assessor must next ascertain the amount which one year with another would be required for the acquisition, formation, and erection of all stations, wharfs, docks, depots, counting-houses, and other places of business. The cost to be taken is the sum which would be required in order to acquire or erect any of these buildings, including the *solum* thereof.[9] He then takes 5 per cent. on this sum, and deducts this from the *cumulo* value. The balance is to be apportioned among the various parishes, counties, burghs, or other rating areas through which the line passes in proportion to the mileage of line or canal route situated in each. To the sum so apportioned to each parish, &c., must be added 5 per cent. on the cost of stations, &c., situated within such parish, &c. The result is the gross annual value of the undertaking of the railway company within each parish, &c.,[1] from which the corresponding "net annual " and " rateable " values are subsequently fixed by the assessor in terms of the Rating (Scotland) Act, 1926, and the Local Government (Scotland) Act, 1929, as explained below.

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[8] Mr. J. A. King, Assessor of Railways and Canals, writes :—"Since the year 1917-1918 it has not been possible to work out the Scottish system of railway valuation in detail, due to special circumstances arising in the first instance from the Great War, and subsequently from the amalgamations effected by the Railways Act, 1921. As the result of the railway amalgamations, all the former separate Scottish railways, excepting the Forth Bridge Railway and the Campbeltown and Machrihanish Light Railway, have ceased to exist, having been absorbed by the London Midland and Scottish and the London and North-Eastern Railway Companies respectively. These two amalgamated companies operate mainly in England, but, between them, they have taken over almost all the public railway lines in Scotland. No separate railway accounts are published, or are otherwise available for either the English or the Scottish portions of the two amalgamated railways which operate in both countries. This change of railway policy created an immediate practical valuation difficulty on both sides of the Border, after the amalgamations took effect, whereby the two different systems of valuation which were in force in England and Scotland respectively prior to the formation of the several railway groups were rendered inoperative. Since 1917-1918 the Scottish railway valuations then in force have been annually adjusted according to what is known as the 'carry forward plan,' *i.e.*, the valuations have been annually adjusted by taking into account, *inter alia*, the fluctuation in the aggregate net receipts brought out in account No. 10 (Receipts and expenditure in respect of railway working) of each amalgamated railway company, as compared with the corresponding aggregate net receipts of all the former constituent companies forming each amalgamated company or railway group for the 'standard' year 1913. A somewhat similar method of annual adjustment has been in force in England and Wales since the railway amalgamations took effect. Government legislation affecting the valuation of railway undertakings in England and Scotland respectively is anticipated in the near future." The Railways (Valuation for Rating) Bill, 1930, was presented in the House of Commons during February, 1930, and obtained a second reading. This Bill completely revolutionises the system of valuing railways in England, and makes some alterations in the Scottish system.

[9] *Dempster* v. *Munro*, 1882, 12 P.L.M. 632.

[1] Secs. 21 to 22 of the 1854 Act, as amended by sec. 4 of the 1867 Act.

The latter provisions of these sections need only be followed where the company is making a profit, and, where the company has no annual value and is in point of fact being worked at a loss, the assessor cannot, of course, apply the provisions as to the allocation of the *cumulo* valuation among the parishes, counties, and burghs, &c.[2]

CANALS.

Canals are valued on the same principle as railways. There are four canals in Scotland, of which two are owned by railway companies, and are valued as part of the owning railway company's undertaking. The remaining two, the Caledonian and Crinan, which were originally in the hands of the " Commissioners of the Caledonian Canal," are now vested in the Minister of Transport. These canals form one undertaking for valuation purposes,[3] and fall to be assessed by the Assessor of Railways and Canals.[4]

DE-RATING AND CLASSIFICATION.

It should be noted that, as will be indicated in Chapter VIII., railways and railway-owned canals became entitled under the Rating (Scotland) Act, 1926,[5] to a deduction from their gross annual value of 25 per cent., and under the Rating and Valuation (Apportionment) Act, 1928, and the Local Government (Scotland) Act, 1929, to a further deduction from their net annual value. The term used in the latter Acts is " freight-transport lands and heritages." These are defined to include (1) lands and heritages occupied and used wholly or partly for railway transport purposes as part of (a) a railway undertaking carried on by a railway company, for which a schedule of standard charges has been settled under the Railways Act, 1921, and which is used for the conveyance of merchandise otherwise than by passenger train, and (b) a light railway undertaking, which is used as a public railway for the conveyance of merchandise otherwise than by passenger train; (2) lands and heritages occupied and used wholly or partly for canal purposes as part of a canal undertaking, which is used for the conveyance of merchandise; (3) lands and heritages occupied and used wholly or partly for dock purposes as part of a dock undertaking, where the substantial volume of business is concerned with the shipping of merchandise not belonging to or intended for the use of the undertakers.[6] Offices for the general direction and management of a railway, canal, or dock undertaking are not included in this definition.[7] The annual value of such undertakings as come within the definition of "freight-transport undertakings" is divided by four for the purpose of arriving at the rateable value.[8] The undertakings become entitled to this deduction as at 16th May, 1930;[9] but for the purposes of the valuation year 1929-1930 for the direction to divide the annual value by four there is substituted a direction to multiply by eight and divide by fifteen.[1]

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[2] *County Council of Argyllshire* v. *Assessor of Railways and Canals*, 1895, 32 S.L.R. 518.

[3] *Commissioners of the Caledonian Canal* v. *County Council of Argyll*, 1894, 22 R. 149; 32 S.L.R. 108; 2 S.L.T. 349.

[4] *Commissioners of the Caledonian Canal* v. *County Councils of Inverness-shire and Argyllshire*, 1894, 21 R. 1045; 31 S.L.R. 830; 2 S.L.T. 162.

[5] Secs. 12 and 13, First Schedule, para. 9.

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[6] Rating and Valuation (Apportionment) Act, 1928, sec. 5 (1); and see also secs. 5 (2) and (3).

[7] 1928 Act, sec. 5 (1), proviso.

[8] Local Government (Scotland) Act, 1929, sec. 45 (1) (a).

[9] 1929 Act, sec. 79 (1).

[1] 1929 Act, sec. 50 (ii).

CHAPTER VIII.

RATEABLE VALUE AND DE-RATING.

Prior to 1926 all local rates, with certain exceptions, were levied on the gross annual value of lands and heritages as appearing in the valuation roll. The exceptions were—(1) Poor and school rates, which under the Poor Law Act, 1845, were imposed upon gross annual value, less deduction of the probable annual average cost of repairs, insurance, rates, &c., which deductions varied from parish to parish and from one class of subject to another; (2) rates on agricultural lands restricted under the Agricultural Rates Act, 1896, and amending Acts; and (3) rates on certain selected subjects, such as railways, docks, mines, and quarries, under certain local statutes.

RATING (SCOTLAND) ACT, 1926.

The Rating Act of 1926 was in reality, as its name implies, an amendment of the law with respect to rating, but it also contained provisions as to the valuation roll. The rating powers of Parish Councils were withdrawn, and rating was consolidated and entrusted to Town and County Councils as sole authorities in their districts. It provided that parish rates and education rates should cease to be levied, collected, and recovered by the Parish Council, and should in the future be levied, collected, and recovered by the Town Council or County Council.

While previous to this Act the yearly rent or value appearing in the valuation roll was deemed to be the real rent for the purpose of county, municipal, parochial, or other assessments, deductions had, however, to be made in the case of certain lands and heritages for the purpose of certain rates.

By sec. 37 of the Poor Law Act, 1845, the Parish Council was bound in the case of every land and heritage to give a deduction from the yearly rent or value thereof as appearing in the valuation roll, to meet the probable annual average cost of repairs, insurance, and other expenses, if any, necessary to maintain the subject in its actual state, and all rates, taxes, and public charges payable in respect of same. This section had led to much litigation. There was no uniform practice. In some parishes a uniform deduction was allowed on all subjects; in others deductions varied from two and one-half per cent. to sixty per cent. in respect of houses, shops, and land; from ten to eighty per cent. on railways, and deductions equally varied were allowed on mills, factories, shootings, fishings, &c. The ratepayer was entitled to have deducted the average annual expenditure on repairs, insurance, &c., in addition to rates even when this amounted to a sum greater than the annual value. In one case where the subjects were entered in the valuation roll at a rent of £1396 a deduction of over £4600 was proved.[1] Agricultural land was also entitled to a deduction of one-half the annual value in counties,[2] and of seventy-five per cent. in burghs, as were also canals, towing paths, railways, tramways, and pipes.[3]

The Act of 1926 abolished all these deductions, and provided that certain classes of subjects should be rated, not on gross annual value, but on gross annual value less certain percentages of varying amount, deducted to arrive at the rateable value of the favoured subjects.

Rateable Value.—The provisions are contained in secs. 12 and 13 of the 1926 Act. In the case of certain specified lands a deduction representing a percentage on the annual value (First Schedule) is to be made from the annual value before rates are levied. This introduces a new *nomen juris* into the valuation law of Scotland. After the percentage deduction has been made from the gross annual value the result is the " rateable value,"[4] and where any deduction from the gross annual value is made the " rateable value " enters the roll in a separate column.[5] It must be noted that under the Rating and Valuation (Apportionment) Act, 1928,[6] the result of deducting the appropriate deduction under the 1926 Act becomes the " net annual value," and it is not until the 1929 Act deductions have been applied that the " rateable value " can be arrived at.[7] The various lands and heritages and the percentage applicable to each are detailed in the First Schedule to the 1926 Act.

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[1] *Etna Iron and Steel Co., Ltd.*, 1924, unreported.

[2] Agricultural Rates Act, 1923.

[3] Burgh Police Act, 1903.

[4] Sec. 29 (1).

[5] Sec. 14.

[6] Sec. 9 (3).

[7] See *infra*, p. 143.

SCHEDULE OF DEDUCTIONS UNDER 1926 ACT.

Paragraph 1.—" Mines, minerals, and quarries, including any lands and heritages contiguous thereto used wholly or mainly for the purposes of the business of working the mines, minerals, and quarries," . . . 5 per cent.

> Houses owned by a colliery company and let to miners are not included within this class.[8]

Paragraph 2.—" Mills, manufactories, works, or premises of a similar character used wholly or mainly for industrial purposes (other than those specified in paragraphs 3, 4, 5, and 11)," . . . $6\frac{1}{4}$ per cent.

> This paragraph has been subject to a number of decisions. It includes all industrial works " where commodities are made or prepared for the market by mechanical or chemical operations " or " where active production or manufacture takes place,"[9] *e.g.*, a motor fuel composed of alcohol, benzol, and petrol.[1] But premises, where a finished article goes through some ancillary process which has to be performed to put the article on the market, do not receive the deduction.[2] Thus blender's premises,[3] premises where quieting, fining, and bottling of beer took place,[4] cold storage premises[5] were not entitled to the deduction. The premises of retail bespoke tailors do not come within the definition of " mills, manufactories," &c.[6] A question arises where part of the premises are used for manufacturing purposes and part for other purposes connected with the storing, distribution, &c., of the finished article. The test there employed is what is the main purpose of the buildings. If it is the manufacture of goods, they re-

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[8] *Cadzow Colliery Co.* v. *Assessor for Lanarkshire,* 1928 S.C. 444; (No. 439); 1928 S.L.T. 267.

[9] *Whitbread & Co.* v. *Assessor for Edinburgh;* 1928 S.C. 425, Lord Hunter, p. 428, Lord Sands, p. 429; (No. 435); 1928 S.L.T. 256.

[1] *London and North-Eastern Railway Co.* v. *Assessor for Glasgow,* 1929 S.C. 325; (No. 458); 1929 S.L.T. 204.

[2] *John Walker & Sons* v. *Assessor for Kilmarnock,* 1928 S.C. 430; (No. 436); 1928 S.L.T. 273; *Whitbread & Co.* v. *Assessor for Edinburgh,* 1928 S.C. 425, *supra,* Lord Hunter, p. 428.

[3] *John Walker & Sons* v. *Assessor for Kilmarnock, supra.*

[4] *Whitbread & Co.* v. *Assessor for Edinburgh, supra.*

[5] *Milne* v. *Assessor for Glasgow,* 1929 S.C. 296; (Nos. 459 and 460); 1929 S.L.T. 200.

[6] *Inland Revenue* v. *Gunn, Collie & Topping,* 1930 S.N. 15; 1930 S.L.T. 296; D.A. 49, at 52.

receive the deduction, but not otherwise.[7] If the subsidiary premises, not otherwise entitled to the deduction, form an integral part of or are ancillary to the manufacturing premises, they obtain the benefit of the deduction;[8] but if the premises are separate and distinct they are not entitled to the deduction.[9] Where works, which are separately entered in the roll as tenant's erections under the 1895 Act, sec. 4, are entitled to the deduction, the ground on which these are situated is also entitled to the deduction.[10]

Paragraph 3.—"Works used wholly or mainly for the conversion of ore into pig-iron and works in the occupation of the same person as the aforesaid works and used in conjunction therewith, wholly or mainly, for the utilisation of by-products arising out of the manufacture of pig-iron," . . . 15 per cent.

In a special case where steelworks received a 30 per cent. deduction (see paragraph 11, *infra*), and where a company owned works in which both iron and steel were manufactured, they were not entitled to treat the whole premises as a *unum quid*, but the premises must be separately entered, each receiving the appropriate deduction.[1]

Paragraph 4.—"Works used wholly or mainly for the manipulation of semi-finished steel or wrought-iron products into tubes," . . . 15 per cent.

Works where finishing work was done to iron and steel already converted into tubes were held not entitled to the deduction.[2]

Paragraph 5.—"Works used wholly or mainly for the extraction of crude oil from shale, and works used wholly or mainly for the refining of crude oil," . . . 15 per cent.

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[7] *Cowan & Co.* v. *Assessor for Edinburgh*, 1928 S.C. 450; (No. 440); 1928 S.L.T. 303; *Assessor for Lanarkshire* v. *Distillers Co.*, 1928 S.C. 439; (No. 438); 1928 S.L.T. 267; *Milne* v. *Assessor for Glasgow, supra.*

[8] *Assessor for Lanarkshire* v. *Distillers Co., supra; John Leng & Co. v. Assessor for Dundee*, 1929 S.C. 315; (No. 453-7).

[9] *Distillers Co.* v. *Assessor for Edinburgh*, 1928 S.C. 435; (No. 437); 1928 S.L.T. 284.

[10] *London and North-Eastern Railway Co.* v. *Assessor for Glasgow, supra.*

[1] *Colville & Sons* v. *Assessor for Ayrshire*, 1928 S.C. 460; (No. 442); 1928 S.L.T. 275.

[2] *Assessor for Glasgow* v. *Scottish Tube Co.*, 1928 S.C. 466; (No. 443); 1928 S.L.T. 270.

> Tar is "crude oil," and works where tar is refined are entitled to the deduction.[3]

Paragraph 6.—"Lands and heritages forming part of the undertaking of any local authority, body, or company supplying gas or water for public purposes, or to members of the public and exclusively used in connection with such supply," . . . 20 per cent.

> Houses belonging to a gas company occupied by managers and other employees, and a showroom, whether in the vicinity of the gasworks or not, do not fall within this paragraph.[4]

Paragraphs 7, 8, 9, *and* 10.—See 1926 Act, First Schedule (Appendix).

Paragraph 11.—"Works used wholly or mainly for the manufacture of steel ingots, or wrought-iron in conjunction with processes incidental to the manufacture of steel or wrought-iron products, or for the manipulation of semi-finished steel or wrought-iron products into plates, sheets, sections, hoops, strips, or bars," . . . 30 per cent.

> A company, which carried on the business of scrap metal merchants, bought scrap metal, and after a process of cutting up and assembling into bundles sold it to manufacturers of steel. They were not entitled to the deduction, as they did not "manufacture" steel.[5]

Paragraph 12.—See 1926 Act, First Schedule (Appendix).

Paragraph 13.—"Agricultural lands and heritages—for the purposes of the owner's share of rates," . . . 25 per cent.

Paragraph 14.—"Agricultural lands and heritages for the purposes of the occupier's share of rates," . . . 75 per cent.

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[3] *Ross & Co.* v. *Assessor for Stirlingshire*, 1928 S.C. 420; (No. 434); 1928 S.L.T. 212.

[4] *Crieff Gas Light Co.* v. *Assessor for Perthshire*, 1928 S.C. 455; (No. 441); 1928 S.L.T. 282.

[5] *Jackson & Co.* v. *Assessor for Glasgow*, 1928 S.C. 416; (No. 433); 1928 S.L.T. 215; see *Colville & Sons* v. *Assessor for Ayrshire*, *supra*.

Agricultural lands and heritages have always been considered to deserve special consideration in the matter of rates. The most recent definition of "agricultural lands and heritages" is to be found in the 1928 Act.[6] For the purpose of occupier's rates they were relieved of five-eighths of their annual value in 1896.[7] A further rebate was allowed in 1923 by sec. 8 of the Agricultural Rates Act, 1923, and agricultural lands and heritages were allowed a 50 per cent. deduction. Under the 1926 Act, sec. 13, this was altered to 25 per cent. for the owner and 75 per cent. for the occupier. This rate was subsequently altered in 1929,[8] whereby for both owners and occupiers an 87½ per cent. deduction was granted.[9]

Abolition of Exemptions from Rates.—Churches, chapels, meeting-houses, and premises exclusively appropriated to public religious worship, where the owner does not occupy the premises but receives a rent therefor, have no longer the privilege of exemption,[1] and owners of cemeteries, whether local authorities or trading concerns, now for the first time are liable for local rates.[2]

DE-RATING.

It has long been recognised that the system of rating in this country was inequitable, and was the legacy of legislation passed in times when conditions differed considerably from the present day. The method of rating proprietors according to the value of their premises, although it may work fairly enough in the case of dwelling-houses and shops, imposes a heavy burden on an industrial undertaking. Income tax is a tax on profits, and when a business is making large profits it is content enough to pay tax; but rates are exigible irrespective of whether any profits are being earned or not. Again, certain business firms may require large and extensive premises in which to carry on their trade, and others may be able to earn their profits within a very much more restricted area. In the one case the payment of rates will be a big item in their expenditure, while the other firm will escape lightly. At a time when the manufacturing concerns of this country find it difficult to compete in the world markets and it is essential that their overhead charges should be as low as possible, and, as it was common ground that the system of rating is antiquated and unfair, it was therefore considered by the Parliament of 1924-1929 that the present time was convenient for remedying many of the defects arising from the present system of rating, and for relieving productive industry of a substantial part of the rating burden.

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[6] Rating and Valuation (Apportionment) Act, 1928, sec. 9 (11). See p. 140.

[7] Agricultural Rates, &c., Act, 1896, sec. 1.

[8] Local Government (Scotland) Act, 1929, secs. 44 and 50.

[9] See also secs. 47 and 48 of the 1929 Act.

[1] 1926 Act, sec. 11 (a).

[2] Sec. 11 (b); see Rating Exemptions (Scotland) Act, 1874.

Rating and Valuation (Apportionment) Act, 1928.

Under this Act the assessor is required to distinguish in the valuation roll what lands and heritages are respectively "agricultural," "industrial," and "freight transport" lands and heritages.[3] Extensive definitions of these terms are there given.

1. *Industrial Lands and Heritages.*—It is to be observed that the definition of these subjects has both a positive and a negative aspect. Positively industrial lands and heritages are defined as those occupied and used as a mine or mineral railway, or as a factory or workshop.[4] But there are negatively excluded from the definition premises occupied for certain specified purposes. The expressions "factory" and "workshop" have the same meanings as in the Factory and Workshop Acts, 1901 to 1920.[5] Under the definition contained in that Act factories may be "textile" or "non-textile." An elaborate description of "textile factory" is given, and a "non-textile factory" means (1) premises which are named in the Schedule to the Act, and (2) "any premises wherein or within the close or curtilage of which any manual labour is exercised, by way of trade or for purposes of gain, in or incidental to any of the following purposes, namely:—

(i) the making of any article or of part of an article; or
(ii) the altering, repairing, ornamenting, or finishing of any article; or
(iii) the adapting for sale of any article;

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[3] 1928 Act, sec. 9 (5).

[4] 1928 Act, sec. 3 (1).

[5] 1928 Act, sec. 3 (2) : section 149 of the Factory and Workshop Act, 1901, with the appropriate schedules, is set out in the Appendix.

and wherein or within the close or curtilage or precincts of which steam, water, or other mechanical power is used in aid of the manufacturing process carried on there." The expression "workshop" is defined to include premises which are named in the Schedule, and also "any premises, room, or place, or within the close or curtilage or precincts of which any manual labour is exercised, by way of trade or for purposes of gain in or incidental to" any of the purposes, as detailed above, applying to a factory. The distinction between a factory and workshop appears to be that in a factory machinery or mechanical power is used in aid of manual labour, while in a workshop manual labour is or may be exercised without the aid of machinery or mechanical power. We now pass to the negative aspect of the definition of industrial lands and heritages. Lands and heritages, although they may be occupied and used as a factory or workshop, are not "industrial" lands and heritages if they are primarily occupied and used for—

(a) the purposes of a dwelling-house;
(b) the purposes of a retail shop;
(c) the purposes of distributive wholesale business;
(d) purposes of storage;
(e) the purposes of a public supply undertaking;
(f) any other purposes whether or not similar to any of the foregoing which are not those of a factory or workshop.[6]

Furthermore, any place used by an occupier for the housing or maintenance of his road vehicles or as stables, although it may be within the close, curtilage, or precincts of a factory or workshop, is deemed not to form part of a factory or workshop for the purposes of this Act.[7] In order to bring the one-man business within the scope of the Act, premises are not to be deemed not to be occupied and used as a factory or workshop by reason only of the fact that the owner or occupier is the only person working there, or that no other person working therein is in his employment.[8]

In the class of industrial lands and heritages are also included:

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[6] 1928 Act, sec. 3 (1).
[7] 1928 Act, sec. 3 (2).
[8] 1929 Act, sec. 46 (1).

(a) Salmon fishings so far as the right is exercised by net or cruive.

(b) Minerals which are let, notwithstanding they are not being worked at the time.[1]

Occupied and Used as a Factory or Workshop.—This is the first qualification for premises being classed as industrial. A number of cases came before the Court which raised the question of the significance to be attached to the words "occupied and used," and particularly to the word "used." These cases dealt with the position of "silent works," *i.e.*, works which had been compelled owing to trade depression to close down. The occupiers of such premises contended that the requirements of the section were satisfied if the premises were adapted and suitable for use as a factory or workshop, although no work was actually being done in them. The Court held that it was not legitimate to read the word "used" as equivalent to "adapted for use as." It may be to some extent a question of fact in every case, for one could not say that premises were not being used as a factory or workshop because of a temporary stoppage in consequence of a strike or lock-out, or because an order had been completed and the occupiers were on the lookout for further orders. But the Court were unable to hold that premises were being occupied and used as a factory where they had been dismantled of machinery, where the employees had been paid off, or where over a substantial period of time nothing had been manufactured, and there was no prospect of anything being manufactured during the year of valuation.[2] It has to be kept in mind that, in valuing premises where owing to continued bad trade business has not been carried on for a considerable time, a substantial reduction in valuation is allowed.[3]

Factory and Workshop.—In considering cases under the Act the Court had next to decide whether the premises for which de-rating was claimed came within the definition of a factory or workshop. If they did not, no question could arise, and they were not de-rateable. In construing the terms of the Act the Court took it that it was the intention of the Legislature to benefit the productive side of industry.[4] The definitions of a factory and of a workshop have been already given, and the salient features are (1) that some article must be "manufactured, altered, or adapted for sale," and (2) that this must be done "by way of trade or for purposes of gain." No exhaustive definition of the first requisite has been attempted, and it is only by a consideration of what processes are included or excluded that any principle can be derived. On the other hand, there have been certain decisions upon a construction of this part of the definition clause of the Factory and Workshop Act in other connections, but these are not altogether satisfactory or consistent.[5] Under the 1928 Act a trout hatchery, where the processes of nature were allowed to take place under more favourable conditions than they would if the trout were allowed to remain in the river under natural conditions, is not a workshop; no alteration or adaptation for sale takes place in the ordinary meaning of these words.[6] Kelp shores do not come within the definition of a factory or workshop;[7] but it might be that if certain definite portions of the shore were marked off where the tangles were burned, these places would come within the meaning of the Factory and Workshop Act.[8]

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[1] 1929 Act, sec. 46 (2).

[2] *Inland Revenue* v. *Mitchell Bros.*, 1930 S.N. 45; 1930 S.L.T. 311; D.A. 165. But cf. *Borwick* v. *Southwark Corporation*, [1909] 1 K.B. 78; and *Schwerzerhof* v. *Wilkins*, [1898] 1 Q.B. 640.

[3] See *Barbour*, 1878, 9 R. 1236; (No. 133).

The workshops of such tradesmen as painters,[9] plasterers,[1] and public works contractors,[2] who do certain preparatory work upon materials which are taken out for use on outside contracts are not workshops in the sense of the Act, as there is no adaptation for sale or alteration of any article. What is done by way of manufacture is not done with a view to producing a separate entity, but is merely ancillary to the execution of contracts outwith the premises.[3] The case of premises where asphalt was manufactured followed these decisions.[4] The principle of these cases cannot be carried too far, and there must be some limit to the relegation of preparation to the position of a mere subordinate incident. Probably a joiner-contractor's yard, with extensive saw mills, and a mason-contractor's yard, where all the stones used were hewn and dressed, could not be excluded from the definition.[5] The Appeal Court was sharply divided in opinion in regard to plumbers' workshops.[6] Lord Hunter considered that they fell within the principle of the painter's case (*supra*), while Lord Sands dissented on the ground that to refuse de-rating was an unreasonable extension of the principle laid down in the previous cases, and he considered that the premises were used substantially for industrial operations. In the one case Lord Fleming concurred with Lord Hunter, and in the other case with Lord Sands, so that no definite rule has been laid down in regard to plumbers' workshops, and each case will depend on its own particular facts.

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[4] *Inland Revenue* v. *John Walker & Sons*, 1930 S.C. 372, at 375; 1930 S.L.T. 237; D.A. 22.

[5] *Kavanagh* v. *Caledonian Railway*, 1903, 5 F. 1128; 40 S.L.R. 812; 11 S.L.T. 281 (bottle-washing works within a hotel were not a factory); *Keith* v. *Kirkwood*, 1914 S.C. (J.) 150; 7 Adam, 472; 51 S.L.R. 664; 1914, 2 S.L.T. 33 (grocer's premises where beer was bottled and bottles washed were not a factory); *Henderson* v. *Glasgow Corporation*, 1900, 2 F. 1127; 37 S.L.R. 857; 8 S.L.T. 118 (refuse dispatch works of a local authority were a factory); *Fullers, Ltd.* v. *Squire*, [1901] 2 K.B. 209 (premises used in daytime as a shop for the sale of sweets and used at night after shop hours for packing sweets into ornamental boxes were a workshop); *Law* v. *Graham*, [1901] 2 K.B. 327 (premises used for washing bottles and bottling beer were not a factory); *Hoare* v. *Truman, Hanbury, Buxton & Co.*, 1902, 86 L.T. 417 (premises used for aerating and bottlng beer were a factory); *Hoare* v. *Robert Green, Ltd.*, [1907] 2 K.B. 315 (a room behind a flower shop where shop assistants made up wreaths, crosses, and bouquets was a workshop).

[6] *Inland Revenue* v. *Howietoun and Northern Fisheries Co.*, 1930 S.C. 355; 1930 S.L.T. 240; D.A. 35.

[7] *Inland Revenue* v. *Bremner*, 1930, D.A. 43.

[8] *Inland Revenue* v. *Bremner*, *supra* : Lords Sands and Fleming.

[9] *Inland Revenue* v. *Assessor for Edinburgh* (*Sinclair*), 1930 S.C. 342; 1930 S.L.T. 165; D.A. 29. See Lord Sands' opinion at p. 345, where he reserved his position as to large premises where the sole business was paint mixing.

[1] *Inland Revenue* v. *M'Intyre*, 1930 S.N. 25; 1930 S.L.T. 202; D.A. 113.

The premises of rag merchants, scrap metal merchants, and a motor car scrap dealer were also considered. The rag merchants, who somewhat ambitiously described themselves as "paper stock manufacturers," bought all manner of waste material—rags, paper, cotton, and twine. These were sorted, graded, and compressed for delivery and sale to the paper manufacturers. It was necessary for the rags to be cleaned, sorted, and graded in order to make them marketable to the paper manufacturers, who would not have bought the material in the state in which it reached the rag merchants. The majority of the Court, nevertheless, held that there was no adaptation for sale.[7] The scrap metal merchants carried on a large business in converting sheets, bars, machines, boilers, tanks, &c., into scrap metal, which is a necessary raw material for the manufacture of iron and steel. It was proved that the steel works would not take iron and steel articles unless they were cut and bundled in sizes suitable for use in the furnaces. Extensive machinery was used for breaking, cutting up, and bundling these articles. The majority of the Court held, contrary to the decision in the rag merchants' case, that there was "adaptation for sale."[8] Lord Sands said that "adapted for sale" must mean "adapted for sale in the line of business of the person who is handling the goods," and in his view the premises were equipped for the treatment of an article so as to put it in a saleable state. Probably where the process is merely one of assortment, classification, or sizing, without interfering with the corpus of the items, different considerations would apply, but it is not necessary that there must be some chemical change or some admixture with other material. "Adaptation for sale" may include altering physical shape so as to make the article saleable.[9] The premises of a motor car scrap dealer who bought broken-down cars in an unmarketable state, and by the removal of what was worn out and the introduction of parts taken from other cars restored them into a marketable condition, were held to be industrial in character.[1]

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[2] *Inland Revenue* v. *Melville, Dundas & Whitson*, 1930 S.C. 477; 1930 S.L.T. 200; D.A. 115.

[3] *Inland Revenue* v. *Melville, Dundas & Whitson*, 1930 S.C. 477, per Lord Hunter.

[4] *Inland Revenue* v. *Currie & Co.*, 1930 S.N. 44; 1930 S.L.T. 307; D.A. 145.

[5] *Inland Revenue* v. *Melville, Dundas & Whitson*, *supra*, per Lord Sands. See also *Petrie* v. *Weir*, 1900, 2 F. 1041; 37 S.L.R. 795; 8 S.L.T. 75.

[6] *Inland Revenue* v. *Turner & Pratt*, 1930 S.N. 43; 1930 S.L.T. 351; D.A. 101.

Certain other processes were considered by the Court. A company owned premises where the treatment of brewers' draff or grain and liquid yeast took place. The grain and yeast was submitted to a process of de-hydrating and cooking by steam, with the result that a considerable alteration took place in the article thereby treated. After treatment its value was considerably enhanced, and it could be stored and used as required. This process was industrial, since it gave to the articles a commercial value which they would not otherwise possess.[2] Similarly, premises where grain was cleaned and dressed, the latter process consisting in taking off the ends of the grain by stone-dressing machines, were held industrial: the processes adapted the grain for sale.[3] But where seeds were cleaned and stored prior to sale to retail distributors, the premises were not industrial.[4] The Court were of opinion that, while premises where beer was chilled, carbonised, and bottled were not a factory,[5] premises wholly devoted to the carbonisation of beer would come within the definition of a factory.[6] A creamery, where milk was pasteurised, chilled, and bottled prior to distribution, was held to be industrial, as the milk was altered and adapted for sale. There was no doubt that a large portion of the premises was devoted to distribution, but the size of the whole premises was totally disproportionate to mere distribution.[7] A curious case concerned the slaughter-houses owned and administered by the Edinburgh Corporation. The premises were used for slaughtering animals, dividing the carcases into parts and treating by-products and residuals. The slaughtering was done by licensed slaughtermen who carried on business on their own account, but the Corporation sold the by-products and residuals. The Court decided that the operations carried on in the premises constituted them a factory or workshop.[8]

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[7] *Inland Revenue* v. *Easson Bros.*, 1930 S.C. 480; 1930 S.L.T. 263; D.A. 118. See also *Paterson* v. *Hunt*, 1909, 101 L.T. 571.

[8] *Brown, Macfarlane & Co.* v. *Inland Revenue*, 1930 S.C. 468; 1930 S.L.T. 260; D.A. 130.

[9] *Brown, Macfarlane & Co.* v. *Inland Revenue*, *supra*, per Lord Sands.

[1] *Inland Revenue* v. *Caplan*, 1930 S.N. 31; 1930 S.L.T. 216; D.A. 136. Lord Hunter dissented on the ground that the premises were primarily a retail shop for the sale of second-hand cars.

By Way of Trade or for Purposes of Gain.—In regard to the requisite that for premises to be a factory or workshop the work must be exercised " by way of trade or for purposes of gain," the Court, in construing the 1928 Act, had before them decisions in England and in Scotland dealing with this point. The question concerned premises which as a whole were not used for any manufacturing process, but where incidentally some process was carried on which brought the premises in question within the definition of the Act. Was it necessary that the process be carried on for direct gain in selling the article upon which the work was expended, or was it sufficient if indirect gain accrued? In the leading case of *Caledonian Railway* v. *Paterson*,[9] it was held that a laundry attached to a hotel, where the washing of hotel linen and of the visitors' clothes was done, was not carried on "by way of trade or for purposes of gain." An apparently inconsistent decision was reached in a later case, where a majority of the Court held that a repair shop used by a tramway company for the repair of their trams was a factory.[10] Lord Moncrieff, however, dissented against this decision, on the ground that the sole business of the company was that of carriers, and that the repair shop was merely incidental to a non-factory business. He considered that the case was indistinguishable from *Caledonian Railway Company* v. *Paterson*.[11] In the most recent Scottish case[1] all the judges approved of the decision in *Paterson*, and in the English Courts preference has been expressed for the dissent of Lord Moncrieff in *Mooney* to that of the majority of the Court.[2] In particular the decision in *Nash* v. *Hollinshead*[3] should be noted, where the Court decided that the gain intended by the section was "direct gain."[4] In their interpretation of the 1928 Act the Valuation Appeal Court, on a balance of authority, approved of the line of reasoning in *Caledonian Railway* v. *Paterson*, *Keith* v. *Kirkwood*, and the English cases referred to. The test case concerned a joiner's workshop owned and occupied by a co-operative society, which was mainly used for the maintenance and establishment of the society's property, and it was held that the work carried on in the workshop was not done by way of trade or for purposes of gain.[5] It was also held that a sawmill upon a private estate owned by Lord Forteviot and used for the manufacture of articles required on the estate, was not carried on " by way of trade or for purposes of gain," as the owner was not engaged in any trade.[6]

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[2] *Inland Revenue* v. *Brewers' Food Supply Co.*, 1930 S.C. 383; 1930 S.L.T. 198; D.A. 98.

[3] *Inland Revenue* v. *Aberdeen Commercial Co.*, 1930 SN. 56; 1930 S.L.T. 384; D.A. 159.

[4] *Inland Revenue* v. *Donaldson*, 1930 S.C. 348; 1930 S.L.T. 167; D.A. 13.

[5] *Inland Revenue* v. *Maclachlans*, 1930 S.C. 449; 1930 S.L.T. 270; D.A. 83. See also *Law* v. *Graham*, [1901] 2 K.B. 327; *Keith* v. *Kirkwood*, 1914 S.C. (J.) 150, *supra*.

[6] *Inland Revenue* v. *Maclachlans*, *supra*, per Lords Sands and Fleming. But cf. *Inland Revenue* v. *William Younger & Co.*, 1930 S.N. 48; 1930 S.L.T. 364; D.A. 152. See *Hoare* v. *Truman, Hanbury, Buxton & Co.*, 1902, 86 L.T. 417.

[7] *Inland Revenue* v. *Tranent Co-operative Society*, 1930 S.N. 30; 1930 S.L.T. 289; D.A. 140.

[8] *Inland Revenue* v. *Edinburgh Assessor* (*Slaughter-houses Case*), 1930 S.C. 429; 1930 S.L.T. 194; D.A. 37.

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[9] 1898, 1 F. (J.) 24; 2 Adam, 620; 36 S.L.R. 60; 6 S.L.T. 194.

[10] *Mooney* v. *Edinburgh and District Tramways Co., Ltd.*, 1901, 4 F. 390; 39 S.L.R. 260; 9 S.L.T. 366. See also *Henderson* v. *Glasgow Corporation*, 1900, 2 F. 1127, *supra*.

[11] *Supra*.

[1] *Keith* v. *Kirkwood*, 1914 S.C. (J.) 150; 7 Adam, 472; 51 S.L.R. 664; 1914, 2 S.L.T. 33.

[2] *Curtis* v. *Shinner*, 1906, 22 T.L.R. 448. See also *Sadler v. Roberts*, 1911, 105 L.T. 106.

[3] [1901] 1 K.B. 700.

[4] A. L. Smith, M.R., at p. 704.

Unum quid.—In applying the provisions of the 1928 Act, assessors throughout the country had made a practice, where part of premises was devoted to industrial purposes and part to non-industrial purposes, of making separate entries of the industrial part, if the industrial part was capable of being separately let and occupied. This practice was expressly disapproved of by Lord Hunter, who said that where premises formed the subject of a single let there was no warrant for a departure from the established practice of valuing them as a *unum quid.*[7] So a garage and workshop,[8] contractor's stables, and a motor repair shop[9] formed a *unum quid*, and the occupier was not entitled to have the workshop part entered separately and classed as industrial. On the other hand, where two sets of premises had previously been entered in the roll separately, they could not be combined under one entry so that the non-industrial part became a *unum quid* with the industrial part for the purpose of de-rating. A bonded warehouse 150 yards distant from a distillery was not a *unum quid* with the distillery, as it could not be said in any sense of the term to be within the curtilage of the distillery premises.[1] Where recreation grounds 200 yards distant from industrial works had been entered separately in the roll, the grounds and works were not a *unum quid.*[2] So also, in connection with agricultural lands and heritages, a dwelling-house within the precincts of a nursery garden and occupied by a partner in the firm of nursery gardeners, which had previously been entered separately in the roll, could not be entered for purposes of de-rating as a *unum quid* with the nursery gardens.[3]

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[5] *Inland Revenue* v. *Paisley Provident Co-operative Society*, 1930 S.N. 30; 1930 S.L.T. 252; D.A. 108. Lord Sands dissented from the decision, and regarded " purposes of gain " as distinguishing work carried on for the purpose of a business prosecuted for gain from work carried on in pursuit of some personal interest or for personal comfort and satisfaction without a view to any pecuniary gain in business. He preferred the decision in *Mooney*. See also his opinion in *White Horse Distillers Co.* v. *Inland Revenue*, 1930 S.N. 19; 1930 S.L.T. 257, at p. 258; D.A. 27.

[6] *Inland Revenue* v. *Assessor for Perthshire*, 1930, S.C. 379; 1930 S.L.T. 208; D.A. 45.

[7] *Inland Revenue* v. *Assessor for Edinburgh* (*Sinclair*), 1930 S.C. 342, per Lord Hunter at p. 343; 1930 S.L.T. 165; D.A. 29.

[8] *Inland Revenue* v. *Assessor for Edinburgh* (*Hunter*), 1930 S.C. 362; 1930 S.L.T. 203; D.A. 33.

[9] *Wordie & Co.* v. *Inland Revenue*, 1930 S.C. 365 and 370; 1930 S.L.T. 258 and 273; D.A. 39 and 41.

[1] *Scottish Malt Distillers, Ltd.* v. *Inland Revenue*, 1930 S.N. 3; 1930 S.L.T. 163; D.A. 21. See also *Distillers Co.* v. *Assessor for Edinburgh*, 1928 S.C. 435; (No. 437); 1928 S.L.T. 284; *Inland Revenue* v. *Highgate & Co.*, 1930 D.A. 87.

Excepted Purposes.—Notwithstanding that premises are a factory or workshop, they are not "industrial lands and heritages" if they are *primarily* occupied and used for certain specified purposes. The Court had considerable difficulty in interpreting the word "primarily." If premises are used for one purpose it is difficult to conceive how they can, properly speaking, be *primarily* used for another purpose. But the effect of the word "primarily" was that the first question which the Court had to answer was, for what purpose are the premises primarily occupied? And the answer to this question depends not upon the manner in which the occupier's business might be most appropriately described, but upon the actual use to which the premises are put considered as a whole.[4] In considering this question, while primarily has not the same meaning as "mainly," which suggests ideas of relative space,[5] it appears to connote comparison,[6] and it is reasonable to take into account such considerations as the size of the building, and the respective areas devoted to one purpose and another, the nature of the mechanical and other fittings, and the respective number of employees.[7]

Purposes of a Dwelling-House.—If premises are primarily occupied and used for the purposes of a dwelling-house, they are not industrial. It is common to find in the country town or village that the small tradesman has his dwelling-house and workshop in the same premises. The question for decision was, what was the primary purpose of such premises? Could it be said that the element of the dwelling-house was more important than the workshop? The Court held that the subjects, regarded as a *unum quid*, were occupied and used as a workshop. This decision applied to the case of a bakehouse, baker's shop and house, and a blacksmith's house and smithy, but not to a house and joiner's shop.[8]

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[2] *Falkirk Assessor* v. *Inland Revenue,* 1930 S.C. 402; 1930 S.L.T. 243; D.A. 59.

[3] *Assessor for Lanarkshire* v. *Findlay Brothers,* 1930 S.C. 407; 1930 S.L.T. 278; D.A. 62.

[4] *Inland Revenue* v. *Gunn, Collie & Topping,* 1930 S.C. 389; 1930 S.L.T. 296; D.A. 49, per Lord Sands.

[5] *Inland Revenue* v. *Maclachlans,* 1930 S.C. 449; 1930 S.L.T. 270, per Lord Sands.

[6] *Inland Revenue* v. *Gunn, Collie & Topping,* 1930 S.C. 389, Lord Fleming at p. 399.

[7] *Inland Revenue* v. *Gunn, Collie & Topping, supra,* Lord Sands at p. 397.

Purposes of Storage.—Premises primarily occupied and used for purposes of storage are not to be regarded as industrial lands and heritages. A duty-free warehouse where whisky was matured[9] and cold storage premises for the preservation of perishable foodstuffs[10] came within this exception. It might have been different if in the latter case the result had been to produce a distinctive commodity having some permanent peculiarity or characteristic of its own and enhanced in value by reason of the treatment obtained.[1] Such an enhancement might be immunity from decomposition. But articles when they are taken out of cold storage are just as subject to attack by germs and other processes of decomposition as they were before they were put in.

Purposes of a Retail Shop.—If premises are primarily occupied and used for the purposes of a retail shop, they are not industrial. The expression " retail shop " includes any premises of a similar character where retail trade or business (including repair work) is carried on.[2] The cases raised by this exception concerned premises where a manufacturing process was carried on and within the same building there was a retail shop where goods manufactured on the premises were sold. Parts of the premises were used for one purpose and parts for another. The question for decision was what was the primary purpose for which the premises were occupied? It was suggested, on the one hand, as nothing was manufactured except for the purpose of satisfying the requirements of customers to whom the goods were to be sold retail, the primary purpose for which the premises as a whole were used was the carrying on of a retail business, *i.e.*, the manufacture of articles was ancillary to the retail business of selling them. On the other hand, the contention for the ratepayer was that the primary use of the premises was for the manufacture of articles, and that their sale in the shop was incidental. The majority of the Court held that they were unable to say that the primary use and occupation of such premises was for the purposes of a retail shop. Thus, the premises of retail bespoke tailors,[3] bootmakers and shoemakers,[4] were held to be industrial. Similarly a baker's shop with bakehouse attached was derateable.[5] The annual value, however, fell to be apportioned in respect of the non-industrial parts of the premises.[6] The Court by a majority arrived at a different conclusion in the case of photographer's premises, which were held to be primarily occupied and used for the purposes of a retail shop.[7] The ground of distinction in this case was the small amount of labour necessary in photographer's premises.

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[8] *Inland Revenue* v. *Assessor for Wigtownshire*, 1930 S.N. 47; 1930 S.L.T. 381; D.A. 153, 155, and 156.

[9] *Distillers Co.* v. *Inland Revenue*, 1930 S.C. 329; 1930 S.L.T. 149; D.A. 19.

[10] *Union Cold Storage Co.* v. *Inland Revenue*, 1930 S.C. 337; 1930 S.L.T. 146; D.A. 12.

[1] *E.g.*, *Inland Revenue* v. *Brewers' Food Supply Co.*, 1930 S.C. 383; 1930 S.L.T. 198; D.A. 98.

[2] 1928 Act, sec. 3 (4).

" Retail shop " includes premises of a similar character where *repair work* is carried on. For premises to come within this definition they must bear the outward character of a shop. But it is not necessary that the repair work should be done on articles which are sold in the shop. Repairing is a factory and workshop purpose, and it is only struck at when it is carried on in a shop or similar premises. Probably premises for the repair of large machines could not be said to fall within the description of premises similar to a retail shop.[8] But the premises of boot repairers,[9] repairing jewellers, and repairing saddlers[1] were excluded from de-rating, as also the premises of a firm of weighing machine manufacturers, where local weighing machines were kept in an efficient state of repair.[2]

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[3] *Inland Revenue* v. *Gunn, Collie & Topping*, 1930 S.C. 389; 1930 S.L.T. 296; D.A. 49.

[4] *Inland Revenue* v. *Moffat*, 1930 S.C. 412; 1930 S.L.T. 274; D.A. 66.

[5] *Inland Revenue* v. *Malcolm and Assessor for Aberdeenshire*, 1930 S.C. 437; 1930 S.L.T. 292; D.A. 70.

[6] See *infra*, p. 139.

[7] *Inland Revenue* v. *Hampton*, 1930 S.C. 419; 1930 S.L.T. 246; D.A. 78.

[8] *Inland Revenue* v. *W. & T. Avery*, 1930 S.N. 29; 1930 S.L.T. 212, Lord Sands at p. 213; D.A. 126. As to meaning of "shop," see Lord Hunter's opinion in *Inland Revenue* v. *Caplan*, 1930 S.N. 31; 1930 S.L.T. 216, at p. 217; D.A. 136; and *Wallace* v. *Dixon*, 1917, 2 Ir.R. 236.

[9] *Inland Revenue* v. *Moffat* (*Barr & Smith*), 1930 S.C. 412; 1930 S.L.T. 274; D.A. 66.

Purposes of Distributive Wholesale Business.—It has been accepted that it was the general purpose of the 1928 Act to de-rate the productive side of industry. It was clearly not within the scope of the Act to de-rate merchants in respect of their business premises, and retailers and distributors are merchants.[3] But questions arose in respect of particular premises, and the difficulty was to decide on which side of industry the process carried on in these premises fell. Was it production, or was it merely an incident in distribution? The Court, in determining this question, has consistently applied two principles. Firstly, where a manufacturing process is being carried on which is the primary purpose for which the premises are occupied, then, despite that a greater proportion of the premises are devoted to distribution, the premises are industrial, subject, of course, to any apportionment which may be necessary.[4] " If you take the case where the whole of the goods distributed are manufactured on the premises, however large may be the space for distribution and however small the space for manufacture, then, as a whole, the premises are used for manufacture, because that is the origin and source of the whole business carried on."[5] Secondly, and as a result of this first principle, the test whether the premises are primarily distributive in character really depends upon whether the process which is there carried on is industrial or not. On these grounds the Court decided that the following premises were primarily occupied and used for the purposes of distributive wholesale business: the premises of whisky blenders,[6] wool sorters,[7] oil blenders,[8] premises where sheets of glass were cut into required sizes,[1] premises where beer was quieted, fined, and bottled,[2] premises where the sale of printing machines was effected and where old machines were re-conditioned,[3] premises where hay was cut in a machine and mixed with grain for horses' fodder,[4] and premises where beer was chilled, carbonised, bottled, and matured, and where the offices of the company were situated.[5] Premises where seeds were cleaned and stored prior to sale to retail distributors were held to be primarily occupied and used for purposes of wholesale distributive business.[6] But where in premises of a similar character grain was cleaned and dressed, the latter process consisting in taking off the ends of the grain by stone-dressing machines, the Court held that the process "adapted" the grain "for sale," and that the premises were accordingly not primarily occupied and used for purposes of distributive wholesale business.[7] The apparent ground of distinction between these two cases was that in *Donaldson* (*supra*)[6] the seed was merely cleaned by the elimination of dirt, but the seed was not changed: the cleaning was a mere incident in the course of the process of distribution. In the latter case[7] each grain underwent a change perceptible to the eye by the elimination of a certain part of the sheath: the process gave the grain a higher commercial value than it would have otherwise possessed, and adapted it for sale. Where premises which otherwise might be a factory or workshop are occupied in connection with or as ancillary to a distributive wholesale business, they fall within the exception, as, for instance, a workshop occupied by whisky blenders, where whisky cases were repaired and painted and the bottles washed.[8] But, as we have seen, where some process of manufacture is being conducted, the fact that a large part of the premises may be devoted to distribution does not make the premises distributive in character. Thus the premises of wholesale manufacturing chemists who also sold proprietary medicines,[9] and a creamery where milk was pasteurised, chilled, and bottled,[10] were not primarily used for distributive purposes and were accordingly industrial lands and heritages.

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[1] *Inland Revenue* v. *Assessor for Edinburgh* (*Gibson & Allan*), 1930 S.C. 443; 1930 S.L.T. 205; D.A. 74.

[2] *Inland Revenue* v. *W. & T. Avery, supra.*

[3] *Inland Revenue* v. *Gunn, Collie & Topping,* 1930 S.C. 389, Lord Sands.

[4] *Inland Revenue* v. *Hatrick,* 1930 S.C. 359; 1930 S.L.T. 206; D.A. 17; *Inland Revenue v. Tranent Co-operative Society,* 1930 S.N. 30; 1930 S.L.T. 289; D.A. 140.

[5] Lord Sands in *Inland Revenue* v. *Hatrick, supra,* 1930 S.C. 359, at p. 362.

[6] *Inland Revenue* v. *John Walker & Sons,* 1930 S.C. 372; 1930 S.L.T. 237; D.A. 22.

[7] *M'Leod & Sons* v. *Inland Revenue,* 1930 S.C. 434; 1930 S.L.T. 250; D.A. 76.

[8] *Inland Revenue* v. *James Sharp & Co.,* 1930 S.C. 463; 1930 S.L.T. 269; D.A. 128.

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[1] *Pilkington Bros.* v. *Inland Revenue*, 1930 S.C. 387; 1930 S.L.T. 211; D.A. 48.

[2] *Inland Revenue* v. *Whitbread & Co.*, 1930 S.N. 45; 1930 S.L.T. 309; D.A. 149. See also *Inland Revenue* v. *Maclachlans*, 1930 S.C. 449; 1930 S.L.T. 270; D.A. 83.

[3] *Inland Revenue* v. *Dawson, Payne & Elliott*, 1930 S.N. 29; 1930 S.L.T. 255; D.A. 123.

[4] *Inland Revenue* v. *Gray & Co.*, 1930 D.A. 148.

[5] *Inland Revenue* v. *Maclachlans*, *supra*. See also *Inland Revenue* v. *William Younger & Co.*, 1930 S.N. 48; 1930 S.L.T. 364; D.A. 152.

[6] *Inland Revenue* v. *Donaldson*, 1930 S.C. 348; 1930 S.L.T. 167; D.A. 13.

[7] *Inland Revenue* v. *Aberdeen Commercial Co.*, 1930 S.N. 56; 1930 S.L.T. 384; D.A. 159.

[8] *White Horse Distillers Co.* v. *Inland Revenue*, 1930 S.C. 426; 1930 S.L.T. 257; D.A. 27.

Any Other Purposes . . . which are not those of a Factory or Workshop.—This has been described as a somewhat puzzling provision, as it is only because subjects are used as a factory or workshop that they are treated as falling within the provisions of the 1928 Act, and yet it would appear from the terms of this proviso that there may be such subjects which are not primarily used for the purposes of a factory or workshop. Various meanings have been ascribed to this provision, but the explanation of the apparent puzzle which has found favour with the majority of the Court is to be found in the word "primarily." "Premises qualify for the status of industrial hereditaments in respect that they are to a certain extent used for the purposes of a factory or workshop; but they are disqualified because that is not the use for which they are *primarily* occupied and used."[11] Another possible meaning was suggested by Lord Hunter, but not concurred in by the rest of the Court. "It seems to indicate," he said, "that one cannot really determine the question by merely finding out whether premises are or are not a factory or workshop . . . If taking a reasonable and common-sense view of the matter, one finds that no one would think of describing the purpose for which the premises are used as a factory and workshop purpose, then the subjects are not industrial lands and heritages."[12] This proviso, at all events, was responsible for certain premises being excluded from de-rating. A refuse destructor used by a town council in discharge of their powers and duties as a sanitary authority was held to be primarily occupied and used for purposes other than those of a factory or workshop.[1] But in the case of the Edinburgh slaughter-houses where in addition to the slaughtering of animals certain by-products were manufactured from the residuals, the contention that the premises were occupied and used for the purposes specified in this proviso was rejected.[2]

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[9] *Inland Revenue* v. *W. & R. Hatrick,* 1930 S.C. 359; 1930 S.L.T. 206; D.A. 17.

[10] *Inland Revenue* v. *Tranent Co-operative Society,* 1930 S.N. 30; 1930 S.L.T. 289; D.A. 140. See also *Inland Revenue* v. *Brewers' Food Supply,* 1930 S.C. 383; 1930 S.L.T. 198; D.A. 98.

[11] Lord Sands in *Assessor for Paisley* v. *Inland Revenue,* 1930 S.L.T. 197, at p. 198. See also *Inland Revenue* v. *Assessor for Edinburgh* (*Slaughter-houses Case*), 1930 S.C. 429, Lord Sands at p. 433; *Inland Revenue* v. *Clan Line Steamers,* 1930 S.C. 445; 1930 S.L.T. 281; D.A. 87, Lord Sands; *Inland Revenue* v. *W. & T. Avery,* 1930 S.L.T. 212, Lord Fleming at p. 214.

[12] *Assessor for Paisley* v. *Inland Revenue, supra,* 1930, S.L.T. at p. 197. See also his opinion in *Inland Revenue* v. *Assessor for Perthshire,* 1930 S.C. 379, at p. 382.

Apportionment.—Where industrial lands and heritages are used partly for industrial purposes and partly for other purposes, the assessor must apportion the net annual value according to the occupation and use for industrial purposes and the occupation and use for other purposes, and any such apportionment must be shown in the valuation roll.[3] It is to be observed that the first question in every case is whether the lands are industrial; if they are not, no question of apportionment can arise. It is only in the event of the lands being primarily industrial in character that the assessor has power to apportion. For the purpose of determining in what proportions industrial premises are occupied and used for industrial or for other purposes, the premises are deemed to be occupied and used for industrial purposes except in so far as any part thereof is under the 1928 Act, or under the enactments relating to the regulation of factories and workshops, to be deemed neither to be nor to form part of a factory or workshop.[4] Where the net annual value of the premises does not exceed £50, or where the part of the net annual value attributable to other purposes does not exceed 10 per cent. of the part attributable to industrial purposes, the premises are treated as if they were occupied and used wholly for industrial purposes.[5] The question of apportionment is pre-eminently one for the assessor and the Valuation Committee applying their local knowledge. But the Court has given expression to certain views which it may be important to notice.

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[1] *Assessor for Paisley* v. *Inland Revenue*, 1930 S.C. 339; 1930 S.L.T. 197; D.A. 31.

[2] *Inland Revenue* v. *Assessor for Edinburgh*, 1930 S.C. 429; 1930 S.L.T. 194; D.A. 37.

[3] 1928 Act, sec. 9 (6) and (8).

[4] 1928 Act, sec 4 (2) (a).

[5] 1928 Act, sec. 4 (2) (b).

There is a provision in the Factory and Workshop Act, 1901,[6] that where a place situate within the close, curtilage, or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process carried on in the factory, that place shall not be deemed to form part of the factory or workshop. A firm of newspaper publishers had received de-rating in respect of that part of the premises which was used for the mechanical production of the newspaper, but the editorial departments and the general administrative offices were not registered under the Factory Act. They were held to have been rightly apportioned as non-industrial on a consideration of the two clauses above quoted.[7] In dealing with the premises of retail bespoke tailors the Court expressed the view that the whole of that part of the premises which was used as a " shop " as distinguished from " workshop " fell to be treated as used for non-industrial purposes. This included the ground floor so far as used for the taking of orders, the exhibition of cloths, the storing of cloths, and the measuring and fitting of customers.[8]

2. *Freight-Transport Lands and Heritages.*—A definition of " freight-transport lands and heritages " is given,[9] and it includes (1) lands and heritages occupied and used wholly or partly for railway transport purposes as part of (a) a railway undertaking for which a schedule of standard charges has been settled under the Railways Act, 1921, and which is used for the conveyance of merchandise otherwise than by passenger train; and (b) a light railway undertaking which is used as a public railway and on which merchandise is conveyed, otherwise than by passenger train: (2) lands and heritages occupied and used wholly or partly for canal transport purposes as part of a canal undertaking: (3) lands and heritages used wholly or partly for dock purposes as part of a dock undertaking, where the substantial proportion of the business is concerned with the shipping of merchandise

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[6] Sec. 149 (4).

[7] *George Outram* v. *Inland Revenue,* 1930 S.C. 351; 1930 S.L.T. 303; D.A. 9.

[8] *Inland Revenue* v. *Gunn, Collie & Topping,* 1930 S.C. 389; 1930 S.L.T. 296, per Lord Sands. See also *Inland Revenue* v. *Moffat,* 1930 S.C. 412; 1930 S.L.T. 274, per Lord Sands; *Inland Revenue* v. *Malcolm and Assessor for Aberdeenshire,* 1930 S.C. 437; 1930 S.L.T. 292; *Inland Revenue* v. *Turner & Pratt,* 1930 S.N. 43; 1930 S.L.T. 351.

[9] 1928 Act, sec. 5.

not belonging to nor intended for the use of the undertakers. It is to be noted that in Scotland docks concerned with the provision of accommodation for fishing vessels are also included.[1] Transport purposes may be either railway transport purposes, canal transport purposes, or dock purposes, and elaborate definitions of these are given.[2]

In considering the extent of a dock undertaking the Court held that a Customs House occupied by H.M. Customs within the docks could not be said to be occupied for dock purposes as part of a dock undertaking.[3] A similar decision was arrived at concerning erections made by tenants on ground belonging to the dock undertakers and premises outside the docks let to a shipping company for use as stores.[3] Sheds owned by a shipping company some distance from the docks and used for the housing of cattle and sheep are not part of a dock undertaking within the meaning of the Act.[4]

Where freight-transport lands and heritages are occupied and used partly for transport purposes and partly for other purposes, the net annual value is to be apportioned by the assessor according to the occupation and use of the respective purposes,[5] and any apportionment must be shown in the valuation roll.[6] Where freight-transport lands and heritages are not occupied and used for more than one transport purpose, the nature of the purpose must be shown by distinguishing mark in the valuation roll, and where these lands and heritages are occupied and used partly for one transport purpose and partly for either or both of the other transport purposes, the net annual value must be apportioned by the assessor according to the occupation and use for the several transport purposes.[7]

3. *Agricultural Lands and Heritages.*—These include any lands and heritages used for agricultural or pastoral purposes only or as woodlands, market gardens, orchards, allotments, or allotment gardens, and any lands exceeding one-quarter of

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[1] 1928 Act, sec. 9 (4).

[2] 1928 Act, sec. 5 (2).

[3] *Clyde Navigation Trustees* v. *Inland Revenue,* 1930 S.C. 454; 1930 S.L.T. 284; D.A. 91.

[4] *Inland Revenue* v. *Assessor for Kirkwall,* 1930 S.C. 454; 1930 S.L.T. 284; D.A. 91.

[5] 1928 Act, sec. 9 (6).

[6] 1928 Act, sec. 9 (8).

[7] 1928 Act, sec. 9 (7).

an acre used for the purpose of poultry farming.[8] The definition will probably cover the use of land either for the purposes of growing crop or for the purpose of rearing stock;[9] and land used for breeding pigs is agricultural land.[1] But land used for breeding silver foxes, whose pelts were sold to produce human clothing, did not come within the definition.[2] The use of the land could not be said to be pastoral, as the foxes were carnivorous and did not feed off the ground. The term "agriculture" does not cover all uses of rural land for the purpose of breeding animals. The use extends only to the breeding of such animals as are associated with an ordinary farm—horses, cattle, sheep, goats, pigs, and poultry. Fish hatcheries, land used for rearing pheasants or breeding dogs, are probably not agricultural subjects.[3] According to the practice in Scotland, farmhouses are treated as a necessary adjunct of a farm, and therefore the whole is entered in the roll as a *unum quid*, and no differentiation is made between the farmhouse and the agricultural land. The effect of this practice is that the farmhouse is de-rated along with the land. But this practice cannot be extended to market gardens. Thus, where a partner of a firm of nursery gardeners occupied a dwelling-house within the precincts of the gardens which had previously been entered separately in the roll, this house was not agricultural land, and should not be entered as a *unum quid* with the nursery gardens.[4] Again, where the annual value of the land forms but a small proportion of the value of the whole subjects, and where the house is the residence of a person, whose sole occupation is not that of a farmer, the subjects considered as a *unum quid* are not agricultural lands and heritages.[5] Lands occupied together with a house as a park, garden, or pleasure ground, or any land kept or preserved mainly or exclusively for sporting purposes are not included.[6] Where a golf club, in addition to the rent of the golf course, paid a separate grazing rent, de-rating could not be allowed in respect of the grazing rent.[7]

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[8] 1928 Act, sec, 9 (11).

[9] *Inland Revenue* v. *Assessor for Renfrew*, 1930 S.C. 345, Lord Hunter, p. 346; 1930 S.L.T. 164; D.A. 15.

[1] *Inland Revenue* v. *Assessor for Renfrew*, *surpa*. See also *Lean* v. *Inland Revenue*, 1926 S.C. 15; 1925 S.L.T. 617.

[2] *Inland Revenue* v. *Ardross Estates Co.*, 1930 S.N. 28; 1930 S.L.T. 214; D.A. 116.

[3] *Inland Revenue* v. *Ardross Estates Co.*, 1930 S.L.T. 214, Lord Sands at p. 216.

[4] *Assessor for Lanarkshire* v. *Findlay Brothers*, 1930 S.C. 407; 1930 S.L.T. 278; D.A. 62.

[5] *Inland Revenue* v. *Assessor for Banff*, 1930 S.N. 48; 1930 S.L.T. 356; D.A. 157.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1929.

Under this Act agricultural, industrial, and freight transport lands and heritages as above defined are granted certain deductions from their net annual value. It will be remembered that under the 1926 Act specified percentage deductions fell to be made from the gross annual value of certain lands and heritages at rates set out in the First Schedule to that Act. The result of these deductions was the "rateable value."[8] Under the 1928 Act[9] the 1926 rateable value now becomes "net annual value," and is the basis for the deductions under the 1929 Act. The figure arrived at after the 1929 deductions have been made is the "rateable value."[1] The rateable value of industrial lands and heritages is accordingly to be calculated by first taking the percentage deduction applicable under the 1926 Act, and from the result deducting 75 per cent. under the 1929 Act.[2] It would have been more simple if the de-rating sections of the 1926 Act had been repealed and the new percentage applicable had been re-stated in the 1929 Act. But the object of the method adopted is to restrict the burden on the Treasury, which, while it must make good the loss of rating occasioned by the 1929 Act, is not bound to contribute towards the loss occasioned by the 6¼ per cent. or other percentage conferred by the 1926 Act.

The new de-rating benefits, so far as industrial subjects are concerned, go far beyond the subjects benefited by the 1926 Act. The benefits, as has been pointed out, extend to factories and workshops which do not fall within the definition of "mills, manufactories, and works" in the Act of 1926. Factories and workshops, not being mills, will be rated in future on £25 of every £100 of gross annual value, whereas "mills, manufactories, and works" will be rated on £23 8s. 9d. on every £100 of gross value, for they will receive:

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[6] 1928 Act, sec. 9 (11).

[7] *Inland Revenue* v. *Assessor for Ross and Cromarty*, 1930 S.C. 404; 1930 S.L.T. 244; D.A. 60.

[8] 1926 Act, sec. 14.

[9] Sec. 9 (3).

[1] 1929 Act, sec. 45 (1).

[2] 1929 Act, sec. 45 (1).

(1) Under the 1926 Act, a deduction, from every £100 of gross value, of - -	£6	5	0
(2) Under the Act of 1929, a further deduction of 75 per cent. of the net annual value of £93 15s., *i.e.*, - - -	70	6	3
Total deduction, - - - -	£76	11	3
Net rateable value, - - -	23	8	9
Gross annual value, - - -	£100	0	0

The valuation roll of the future must therefore show:

(a) Gross annual value.
(b) Net annual value.
(c) Rateable value.

Method of ascertaining the Rateable Value.—The calculations which have to be made in order to arrive at the net annual value and the rateable value of the lands and heritages affected by the 1926 and 1928 Acts are not simple in every case. The duties of assessors in burghs and counties where there are manufacturing premises have been considerably increased, and the rules to be followed in ascertaining the rateable value deserves special consideration. As regards agricultural lands and heritages, their rateable value is arrived at by deducting from the gross annual value 87½ per cent.[3] The de-rating of freight transport lands and heritages has already been dealt with,[4] and the position of industrial lands and heritages must next be considered.

The first step is to find out to what if any deduction the property in question is entitled under the 1926 Act (First Schedule). As we have seen, there is a different percentage applicable to each class. The appropriate percentage of the annual value is then deducted, thus arriving at the "net annual value." If the premises come within the definition of "industrial lands and heritages" given,[5] the assessor is required to show this by distinguishing marks in the valuation roll.[6] The next question which arises is whether the property, if industrial lands and heritages, is wholly used for industrial purposes or partly for industrial purposes and partly for other purposes.[7] If the property is wholly used for industrial purposes, the calculation is comparatively simple. The result of deducting the appropriate percentage under the 1926 Act from the " gross annual value " becomes the " net annual value."[8] From the " net annual value " there must now be deducted the 1929 percentage. For the purpose of the year 1929-1930 the net annual value must be multiplied by 8 and divided by 15,[9] but as regards all future years the net annual value is divided by 4.[1] The result of both these calculations is the " rateable value " which enters the roll under that heading. It is now the practice of certain assessors in valuing industrial lands and heritages to append to the notice given to the proprietor or occupier under sec. 9 of the 1854 Act a detailed statement of the calculations upon which the rateable value is ascertained. Although it is not obligatory upon assessors to furnish such a statement, it affords the persons interested an opportunity of understanding what is a totally new departure in the law of valuation. (A specimen notice is printed in the Appendix at page 252.)

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[3] 1929 Act, sec. 44 (1).

[4] *Supra*, p. 115, 116, 138, and 139.

[5] 1928 Act, sec. 3.

Where the industrial premises are used partly for industrial purposes and partly for other purposes, the assessor must first apportion the gross annual value according to the occupation and use for industrial purposes and the occupation and use for other purposes,[2] and this apportionment must be shown in the valuation roll.[3] Where the net annual value does not exceed £50, or where the part of the net annual value attributable to other purposes does not exceed 10 per cent. of the part attributable to industrial purposes, the premises are treated as if they were occupied and used wholly for industrial purposes.[4] In this event the procedure is similar to that detailed in the preceding paragraph. But where the part of the net annual value attributable to other purposes exceeds 10 per cent. of the part attributable to industrial purposes, the part attributable to such other purposes shall not be treated as being attributable to those other purposes except in so far as it exceeds 10 per cent. of the part attributable to industrial purposes.[5] This means that the industrial part will carry with it for de-rating purposes 10 per cent. of its own value, which 10 per cent. will be deducted from the part of the value attributable to the purposes regarded as non-industrial, though all of the purposes are really essential for the carrying on of the industry.

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[6] 1928 Act, sec. 9 (5).
[7] 1928 Act, sec. 9 (6).
[8] 1928 Act, sec. 9 (3).
[9] 1929 Act, sec. 50 (ii).
[1] 1929 Act, sec. 45 (1).
[2] 1928 Act, sec. 9 (6).
[3] Sec. 9 (8).
[4] 1928 Act, sec. 4 (2) (b).

The various steps which the assessor must now take in the case of all industrial subjects are:—

(1) Ascertain the gross annual value.
(2) Fix the deduction, if any, applicable under the 1926 Act.
(3) Deduct it and thus arrive at net annual value.
(4) Apportion the net annual value between the "industrial" and "non-industrial" parts of the subject.
(5) Ascertain 10 per cent. of the "industrial" part of the net annual value.
(6) Add that 10 per cent. to the "industrial" part of the net annual value.
(7) Deduct the same 10 per cent. from the "non-industrial" part of the net annual value.
(8) Deduct 75 per cent. from the valuation so arrived at of the "industrial" portion.
(9) Add the figures so arrived at to the reduced part of the net annual value of the "non-industrial" portion and thus arrive at the rateable value of the subjects.

In order to make this clear and easy of comprehension let us take the concrete case of a factory, the gross annual value of which is £700, apportioned thus—"Industrial," £575; "non-industrial," £125.

1. Gross annual value, - - - - -	£700	0	0
2. Deduction under the 1926 Act, $6\frac{1}{4}$ per cent., - - - - - -	43	15	0
3. Net annual value, - - - - - -	£656	5	0

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[5] 1928 Act, sec. 4 (2) (b).

4. Apportion same thus—		
Industrial, -	£539 1 3	
Non-industrial,	117 3 9	
5. Add 10 per cent. of £539 1s. 3d., viz., £53 18s. 1d., to that amount, -		£592 19 4
6. Deduct 10 per cent. of £539 1s. 3d., viz., £53 18s. 1d., from £117 3s. 9d., -		63 5 8
Net annual value, - - -		£656 5 0
7. Deduct 75 per cent. (this year 8/15ths) from £592 19s. 4d., leaving rateable value of "Industrial" portion, -		148 4 10
8. Add, in full, apportioned value of the "non-industrial" portion, - -		63 5 8
		£211 10 6
9. Rateable value of factory nearest complete £1 of value, - - - -		£212 0 0

Operation.—The Local Government (Scotland) Act, 1929, as a whole does not have effect until 16th May, 1930, but the rating provisions contained in Part II., secs. 44-51, come into operation on 16th May, 1929,[6] subject to these modifications:—

(a) as regards agricultural lands and heritages, the rate of deduction for the purpose of both owner's and occupier's share of rates is to be 92 per cent.;

(b) in fixing the rateable value of industrial and freight transport lands and heritages in lieu of the direction to divide a value by 4 there is substituted a direction to multiply such value by 8 and divide it by 15.

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[6] 1929 Act, sec. 50 (i) and (ii).

APPENDICES.

PART I.

STATUTES AND ORDERS.

APPENDIX I.

LANDS VALUATION (SCOTLAND) ACT, 1854
(17 & 18 Vict. c. 91.)

An Act for the valuation of lands and heritages in Scotland.

[10th August, 1854.]

Whereas it is expedient that one uniform valuation be established of lands and heritages in Scotland, according to which all public assessments leviable or that may be levied according to the real rent of such lands and heritages may be assessed and collected, and that provision be made for such valuation being annually revised: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

County council and magistrates of burghs to make up valuation roll annually.

I. The county council[1] of every county and the magistrates of every burgh in Scotland respectively shall annually cause to be made up a valuation roll, showing the yearly rent or value for the time of the whole lands and heritages within such county or burgh respectively, and separately within each parish or part of a parish situated within such county or burgh respectively, and specifying in each case the nature of such lands and heritages, and the names and designations of the proprietors or reputed proprietors, and where there are tenants and occupiers, of the tenants and of the occupiers thereof respectively.

Officer of Inland Revenue to assist the county council and magistrates in making up the valuation roll.

II. In making up the valuation roll the county council and magistrates respectively may take the assistance of the officer of Inland Revenue charged with the duty of assessing to the income tax in such county or burgh respectively; and such county council and magistrates respectively may, from time to time, as often as they may deem it necessary, by their order in writing, to be signed by their clerk, require any officer of Inland Revenue, charged with the duty of assessing the income tax in such county or burgh respectively, to appear before them when, and where, and as often as such county council and magistrates respectively may deem expedient, and to produce all assessments and other documents in the custody or power of such officer relating to the value of, or

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[1] By the Local Government (Scotland) Act, 1889 (52 & 53 Vict. c. 50), secs. 11 and 12, the whole powers and duties of the Commissioners of Supply under the Lands Valuation (Scotland) Acts were transferred to and vested in the County Councils, and the expression "County Council" falls to be substituted for "Commissioners of Supply" and the expression "County Clerk" for "Clerk of Supply" (sec. 83) throughout the Acts.

Act 1854.

assessment on, all or any of the property within the several parishes or places within his district or division, and to be examined on oath, and answer such questions as the said county council and magistrates respectively may put to him touching the said assessments or the value of the property contained therein.

Appointment and duties of assessors.

III. In order to the making up of such valuation, the county council of each county and the magistrates of each burgh respectively shall, as occasion requires, appoint one or more fit and proper persons to be assessors or assessor for the purposes of this Act; and it shall be the duty of such assessors annually to ascertain and assess the yearly rent or value of the several lands and heritages within the county or burgh respectively, other than the lands and heritages of railway and canal companies, which are hereinafter specially provided for, and to make up such valuation roll thereof in the manner by this Act prescribed; and every such assessor shall be appointed either for the whole county or burgh, or for some particular portion or district thereof to be prescribed by the county council or magistrates respectively; and every such assessor shall, on being appointed by the said county council or magistrates respectively, and before entering upon the duties of his office, declare that he will faithfully and honestly perform the duties thereof; and every such assessor shall be removeable at the pleasure of the said county council or magistrates respectively.

Assessors to make up valuation roll by 15th August in each year.

IV. In every county and burgh a new valuation roll shall be annually made up by the assessors on or before the fifteenth day of August in every year.

Notice to be given to persons whose property is valued.

V. On or before the twenty-fifth day of August, and not earlier than the fifteenth day of July in each year, the assessor shall transmit or cause to be transmitted to each person included in his valuation, whether as proprietor or tenant or occupier, a copy of every entry in such valuation roll wherein such person shall be set forth either as proprietor or tenant or occupier, along with a notice to such person that if he considers himself aggrieved by such valuation he may appeal against the same to the county council of the county or to the magistrates of the burgh, as the case may be, in terms of this Act, or may obtain redress without the necessity of such appeal, by satisfying the assessor, on or before the eighth day of September in each year, that he has well-founded ground of complaint; and such copy and notice may be served by handing the same to such person personally, or leaving the same, or sending it through the post office, at his residence or usual place of abode; and where the residence or place of abode of such person is unknown, it shall be sufficient if service be made as aforesaid upon his factor or agent, or be addressed to him at the office of the county clerk of the county or town-clerk of the burgh, as the case may be: Provided always, that where, in making up his valuation as aforesaid, the assessor is merely to repeat an entry which occurred in the valuation of the immediately preceding year, it shall not be necessary for the assessor to transmit such copy and notice as aforesaid to the person or persons specified in such merely repeated entry.

Yearly rent or value, how to be estimated.

VI. In estimating the yearly value of lands and heritages under this Act, the same shall be taken to be the rent at which, one year with another, such lands and heritages might in their actual state be reasonably expected to let from year to year; and where such lands and heritages consist of woods, copse, or underwood, the yearly value of the same shall be taken to be the rent at which such lands and heritages might in their natural state be reasonably expected to let from year to year, as pasture or grazing lands; and where such lands and heritages are *bona fide* let for a yearly rent conditioned as the fair annual value thereof, without grassum or consideration other than the rent, such rent shall be deemed and taken to be the yearly rent or value of such lands and heritages in terms of this Act: Provided always, that if such lands and heritages be let upon a lease the stipulated duration of which is more than twenty-one years from the date of entry under the same, or in the case of minerals more than thirty-one years from such date of entry, the rent payable under such lease shall not necessarily be assessed as the yearly rent or value of such lands and heritages, but such yearly rent or value shall be ascertained in terms of this Act irrespective of the amount of rent payable under such lease, and the lessee under such lease shall be deemed and taken to be also the proprietor of such lands and heritages in the sense of this Act, but shall be entitled to relief from the actual proprietor thereof, and to deduction from the rent payable by him to such actual proprietor, of such proportion of all assessments laid on upon the valuation of such lands and heritages made under this Act, and payable by such lessee as proprietor in the sense of this Act, as shall correspond to the rent payable by such lessee to such actual proprietor as compared with the amount of such valuation.[2]

Assessor may call for written statement of rent.

VII. It shall be lawful for any assessor acting under this Act to call upon any person, being a proprietor or reputed proprietor or tenant or occupier within the county or burgh or district for which such assessor is appointed, for a written statement of the yearly rent or value and of all other particulars required by this Act of all lands and heritages within such county or burgh or district of which such person is proprietor or reputed proprietor, or tenant or occupier; and if any such person shall, without reasonable excuse, fail to furnish such written statement to such assessor within fourteen days after he shall be called upon in writing so to do, he shall be liable to pay a penalty not exceeding twenty pounds; and if any such person shall present or cause to be presented to such assessor any false statement of such yearly rent or value or other particulars as aforesaid, he knowing the same to be false, he shall be liable to pay a penalty of fifty pounds.

Courts of Appeal.

VIII. The county council[3] of every county and the magistrates[4] of every burgh shall annually on or before the nineteeth[5] but not earlier than the tenth day of September in each year hold a Court for hearing appeals against valuations made by such assessors as aforesaid under this Act, of which ten days' notice shall be given, which Court may be adjourned from time to time; and at such Court, and at latest on or before the thirtieth day of September in each year, all such appeals and complaints under this Act shall be disposed of; and such Courts or adjourned Courts of Appeal shall be held in such and as many places within such county and burgh respectively as such county council and magistrates respectively shall appoint.

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[2] A new proviso was added by sec. 4 of the Lands Valuation (Scotland) Act, 1895 (58 & 59 Vict. c. 41). *Infra*, p. 180.

[3] Now the Valuation Committee of the County Council (1879 Act, secs. 4 and 5 (42 & 43 Vict. c. 42), and Local Government (Scotland) Act, 1889, sec. 11 (52 & 53 Vict. c. 50)).

Persons entitled to appeal.

IX. All persons whose names shall have been entered by the assessors in the valuation roll of the county or burgh respectively, whether as proprietors or tenants or occupiers, shall be entitled to appeal to the said county council or magistrates, as the case may be, with reference to such entry: Provided always, that the appellant shall, six days at least before such appeal is heard, intimate in writing to the assessor that he is to maintain such appeal, and specify the amount of valuation which he alleges should be substituted for the amount stated by the assessor.

Procedure at Appeal Courts.

X. It shall be competent to the county council and magistrates of burghs respectively in the hearing of appeals under this Act to cite and examine the parties and their witnesses on oath, and to call for all papers and documents which they may deem necessary; and every Court of Appeal shall be attended by the assessors by whom the several valuations under appeal were made, and such assessors shall answer upon oath all competent interrogatories which may be put to them with reference to the matters involved in such appeals; and it shall not be necessary for the Court of Appeal to keep any formal record of their proceedings, except only a note of the assessment, appeal, and judgment; but they may, if they think proper, cause any deposition which may be made before them to be taken down in writing,[6] and signed by the deponent, and may authenticate it by the signature of one of their number as having been made in their presence; and every such deposition so taken down, signed, and authenticated shall be deemed and taken to be good evidence in any prosecution for perjury.

Valuation roll to be retained by assessor till 8th of September yearly, and thereafter to be open to inspection.

XI. The valuation roll, when made up by the assessor, shall be retained by him until the eighth day of September in each year, when he shall transmit it to the county clerk of the county, or to the town-clerk of the burgh, as the case may be, or, if there be no town-clerk, to such other person as the chief magistrate of the burgh, or if there be no such magistrate, the Sheriff of the county, may specially appoint for the purpose, which he is hereby required in such case to do, as occasion requires; and the said valuation roll shall thereafter remain in the office of such county clerk or town-clerk, or other person specially appointed as aforesaid, patent to every person having interest therein, either as proprietor, tenant, or occupier.

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[4] A Burgh Valuation Committee may now be appointed under sec. 5 of the 1895 Act (58 & 59 Vict. c. 41).

[5] See Local Government (Scotland) Act, 1908, sec. 7 (1) (8 Edw. VII. c. 62).

[6] The evidence may now be taken down in shorthand (1879 Act, sec. 8 (42 & 43 Vict. c. 42)).

Valuation roll when completed to be authenticated, and to be in force for one year.

XII. As soon as all appeals taken under this Act shall have been disposed of, and the valuation of the county or burgh shall have been thereby completed, the said valuation roll shall be authenticated in counties by the signature of the convener of the county council, or of the county clerk, or other person whom the county council may authorise for that purpose, and in burghs by the signature of the chief magistrate, or of the town-clerk, or other person whom the magistrates may authorise for that purpose, and such valuation roll shall then be in force as the valuation roll of the county or burgh, as the case may be, for the year commencing at the term of Whitsunday immediately preceding, and ending at the term of Whitsunday immediately following; and every parish, person, or persons, interested in any valuation roll under this Act, shall be entitled to inspect and make copies of the same or any part thereof, at their own expense, at such reasonable times, and on payment of such moderate fee, and subject to such regulations, as the county council or magistrates respectively may fix.

As to complaints made with regard to assessors' valuations.

XIII. If any complaint shall be made to the county council of any county, or to the magistrates of any burgh, sitting as an Appeal Court as above provided, to the effect that the yearly rent or value of any lands or heritages within such county or burgh respectively has been stated by the assessor in the valuation roll of such county or burgh at other than the just and true amount thereof, such county council and magistrates respectively may, if they think fit, make inquiry into such complaint, after giving not less than six days' notice to the proprietor and occupier of such lands and heritages of the time and place when such inquiry will be gone into, and may thereupon alter the amount of the yearly rent or value of such lands and heritages in the valuation roll of such county or burgh to such extent as, after such inquiry, may appear to them to be just; and the county council and magistrates respectively, in the conduct of such inquiries as aforesaid, shall have all the same powers and authorities as are by this Act conferred upon them with reference to appeals; and it shall be lawful for them to award expenses against the complainer, where it shall appear to them that such complaint has been made without any reasonable or probable cause: Provided always, that where any parish consists partly of a burgh and partly of a landward district, it shall be competent to the county council of the county or to the magistrates of such burgh respectively, if they shall think that any property within such parish has been unduly valued, to refer the true value of the same to the Sheriff of the county, who shall decide the same summarily without being subject to review, and the magistrates and county council respectively, on such decision being produced to them, shall correct the roll accordingly at the next ensuing period of valuation.

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Quorum.

XIV. In all proceedings under this Act, any two magistrates of a burgh shall be deemed to be a quorum of such magistrates and shall be entitled to exercise all the powers conferred upon the general body of magistrates under this Act, and the majority present, and voting, shall rule the decision; and where the votes of those present shall be equal, the preses of the meeting shall have a casting vote.[7]

Preses at meeting of magistrates of burghs under this Act.

XV. In all meetings of magistrates of burghs under this Act, the lord provost, or provost, or chief magistrate of the burgh, when he is present thereat, shall be preses of such meeting; and, failing him, the person who may be elected by such meeting to act as its preses shall be preses of such meeting.[8]

Papers and documents emanating from magistrates, how to be authenticated.

XVI. For the purposes of this Act, the signature of the lord provost, or provost, or chief magistrate of the burgh, or of the preses of a meeting of the magistrates of the burgh, adhibited to any paper or document shall be equivalent to the signatures of the whole magistrates present at such meeting; and the addition to such signatures respectively of the words "lord provost," "provost," "chief magistrate," or "preses" shall be good *prima facie* evidence that such signature is the signature of such "lord provost, "provost," "chief magistrate," or "preses," as the case may be, and that such paper or document is genuine and authentic.

Powers of supplementary assessment granted by existing Acts of Parliament not to be affected.

XVII. Where, by any Act of Parliament, power is given to make a supplementary assessment for any portion of the year from Whitsunday to Whitsunday, such power shall not be affected by this Act; and the assessors under this Act are hereby respectively authorised and required to make up such supplementary valuation roll as may be necessary in order to such supplementary assessment: Provided always, that such supplementary assessment shall be made upon the proprietors, tenants, or occupiers liable thereto, according to the valuations established by this Act of the respective lands and heritages of which they are such proprietors, tenants, and occupiers respectively for the year, to a portion of which such supplementary assessment applies: Provided also, that every assessor making up such supplementary valuation roll shall transmit or cause to be transmitted to each person included therein, whether as proprietor, tenant, or occupier, a copy of every entry in such supplementary valuation roll wherein such person shall be set forth either as proprietor, tenant, or occupier, along with a notice to such person that if he considers himself aggrieved by such supplementary valuation he may appeal against the same as aftermentioned, and it shall be lawful for every such person to appeal within fourteen days thereafter to the Court of Appeal established by this Act; and such Court shall have the power of granting relief against such supplementary valuation so appealed against, to such extent and in such way and manner as to such Court may seem just.[9]

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[7] The quorum for the County Valuation Committee is three (1879 Act, sec. 5 (4) (42 & 43 Vict. c. 42)), as also for the Burgh Valuation Committee (1895 Act, sec. 5 (58 & 59 Vict. c. 41)).

[8] See 1879 Act, *infra*, sec. 5 (7), and 1895 Act, sec. 5.

[9] See Burgh Police (Scotland) Act, 1903, sec. 60, *infra*, p. 187.

Expenses of valuations, how to be defrayed.

XVIII. After the completion of each annual valuation as aforesaid under this Act, the county council of each county and the magistrates of each burgh shall cause an account to be made up of the costs and expenses attending the same, and shall ascertain and fix the just amount thereof, and they shall cause such amount along with such reasonable sum as they may deem necessary to meet the expenses of collection, to be assessed upon the lands and heritages within their county or burgh respectively, included in such valuation, by a rateable assessment upon such lands and heritages according to the yearly rent or value thereof as fixed by such valuation, the proprietors and occupiers of such lands and heritages being liable to pay such assessment equally between them, or, in the option of such county council or magistrates respectively, shall cause such amount to be assessed along with and as part of and by way of addition to any other assessment which may be leviable according to the valuation established by this Act within such county or burgh; and any balance of funds remaining on hand from time to time in any county or burgh, arising from such assessment under this Act in any one year, after answering the expenses of the year with reference to which such assessment was imposed, may be retained and applied by the county council of each county and the magistrates of each burgh respectively, in such manner as they may deem fit, for defraying the expenses of making up valuation rolls under this Act in subsequent years, but for no other uses or purposes whatever: Provided always, that where in any county or burgh there are or shall be funds available for the purpose, it shall be lawful for the county council of such county or magistrates of such burgh, as the case may be, to defray such costs and expenses as aforesaid out of such available funds, in place of resorting to assessment under the provisions of this Act.

XIX. . . . .

Assessor of railways and canals to be appointed.

XX. In order to the making up of valuations and valuation rolls of lands and heritages in Scotland belonging to or leased by railway or canal companies,[1] and forming part of the undertakings of such companies, it shall be lawful for Her Majesty to appoint, as occasion requires, a fit and proper person to be assessor of railways and canals for the purposes of this Act; and the remuneration or salary to be paid to such assessor of railways and canals in respect of his own time and trouble, and in respect of any clerks or other officers whom he may be allowed by the commissioners of Her Majesty's Treasury[2] to employ in the execution of his duties under this Act, shall be fixed from time to time by the said commissioners of Her Majesty's Treasury;[2] and such assessor of railways and canals shall, before entering on the duties of his office, declare that he will faithfully and honestly perform the duties thereof, and shall be removeable by Her Majesty at pleasure.

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[1] For meaning of word "companies" see 57 & 58 Vict. c. 36, sec. 7.

[2] See Secretary for Scotland Act, 1885, sec. 5 (3).

Act 1854.

Such assessor to make up annually a valuation roll of railways and canals.

XXI. The assessor of railways and canals under this Act shall, on or before the fifteenth day of March[3] in every year, inquire into and fix *in cumulo* the yearly rent or value, in terms of this Act, of all lands and heritages in Scotland belonging to or leased by each railway and canal company, and forming part of its undertaking, and shall also inquire into and fix the amount which one year with another would be required in order to the acquisition, formation, and erection of the several stations, wharfs, docks, depots, counting-houses, and other houses and places of business respectively, in Scotland, of or connected with each such undertaking (including the *solum* on which such stations and others are erected), and shall also inquire into and fix all other matters necessary to enable him to make up a valuation roll of railways and canals as after-mentioned; and such assessor of railways and canals, shall make up a valuation roll, applicable to all railway and canal companies having lands and heritages as aforesaid, in which valuation roll shall be set forth, in columns, the yearly rent and value, in terms of this Act, of the whole lands and heritages, in Scotland, belonging to or leased by each such railway or canal company respectively, and forming part of its undertaking; the names of the several parishes, counties, and burghs through which the line of such railway or canal company runs, or in which its said lands or heritages, or any part thereof, are situated; the lineal measurement of its entire line, and the portion of such lineal measurement situated in each such parish, county, and burgh; the amount of the cost as aforesaid of its several stations, wharfs, docks, depots, counting-houses, and houses and places of business in Scotland (including as aforesaid), the proportion of such gross amount expended in each such parish, county, and burgh, and, where any stations, wharfs, docks, depots, counting-houses, or other houses or places of business are held or used jointly by any two or more railway or canal companies, the proportions in which such railway and canal companies are respectively interested therein, and also the yearly rent or value, in terms of this Act, ascertained as after-mentioned, of the portion in each parish, county, and burgh in Scotland of the lands and heritages belonging to or leased by each railway and canal company, and forming part of its undertaking.

Mode in which the yearly rent or value of railways and canals is to be ascertained.

XXII. The yearly rent or value, in terms of this Act, of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway or canal company, and forming part of the undertaking of such company, shall be ascertained as follows; that is to say, there shall be deducted, in the first place, from the *cumulo* yearly rent or value of the whole lands and heritages in Scotland as aforesaid of each such railway or canal company, a sum equal to five[4] pounds per centum of the whole cost as aforesaid of the stations, wharfs, docks, depots, counting-houses, and other houses and places of business in Scotland of and connected with the undertaking of such railway or canal company (including as aforesaid); and the proportion of such diminished *cumulo* rent or value corresponding to the lineal measurement of the portion of the line, including ferries attached thereto, of such railway or canal company, situated in such parish, county, or burgh, as compared with the lineal measurement of the entire line, including ferries as aforesaid, of such railway or canal company, with the addition of a sum equal to five[4] pounds per centum of the cost as aforesaid of any station, wharf, dock, depot, counting-house, or other house or place of business, within such parish, county, or burgh, or of or connected with the undertaking of such railway or canal company (including as aforesaid), shall be deemed and taken to be the yearly rent or value, in terms of this Act, of the lands and heritages in such parish, county, or burgh belonging to or leased by such railway or canal company, and forming part of its undertaking.

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[3] See 57 & 58 Vict. c. 36, sec. 2.

[4] See 1867 Act, sec. 4 (30 & 31 Vict. c. 80).

Water, gas and other companies may have their lands and heritages valued by the assessor of railways and canals.

XXIII. Where any water company or gas company, or other company having any continuous lands and heritages liable to be assessed in more than one parish, county, or burgh, shall desire to have such lands and heritages assessed by the assessor of railways and canals under this Act, it shall be competent to such water or gas or other company to make intimation in writing of such desire, under the hand of its manager, secretary, or other principal officer, at any time before the 15th day of November[5] in any year, to the Sheriff of the county within which such lands and heritages, or the head office and place of business in Scotland of such water or gas or other company are situated; and such Sheriff shall forthwith make such public advertisement of his having received such intimation as to him shall seem necessary or proper, and also shall make special intimation thereof to the assessor of railways and canals under this Act; and thereupon such assessor of railways and canals shall be exclusively charged, subject to appeal as herein provided, with the valuation of the lands and heritages in Scotland of such water or gas or other company in terms of this Act; and such assessor of railways and canals shall, on or before the fifteenth day of March[5] in every year, inquire into and fix *in cumulo* the yearly rent and value, in terms of this Act, of all lands and heritages in Scotland belonging to or leased by such water or gas or other company, and forming part of its undertaking, and shall also inquire into and fix the just proportions of such *cumulo* yearly rent or value applicable to each parish, county, and burgh in Scotland in which such water or gas or other company is liable to be assessed as aforesaid; and such assessor of railways and canals shall include in the valuation roll to be made up by him under this Act all the water companies, gas companies, and other companies, whose lands and heritages shall be valued by him as aforesaid, and shall set forth in such valuation roll, in columns, the yearly rent or value, in terms of this Act, *in cumulo*, of the whole lands and heritages in Scotland belonging to or leased by each such water, gas, and other company respectively, and forming part of its undertaking, the names of the several parishes, counties, and burghs in which its said lands and heritages or any part thereof are situated, and also the yearly rent or value, in terms of this

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[4] See 1867 Act, sec. 4 (30 & 31 Vict. c. 80).

[5] See 1894 Act, sec. 2 (57 & 58 Vict. c. 36).

Act 1854.

Act, of the portion in each such parish, county, and burgh, separately and respectively, of the lands and heritages belonging to or leased by each such water, gas, and other company respectively, and forming part of its undertaking.

Notice of valuation to be given to railway and canal companies, &c.

XXIV. On or before the fifteenth day of March[6] in each year, the said assessor of railways and canals under this Act shall transmit or cause to be transmitted to each railway and canal and other company included in his valuation, either through the post office, or by causing the same to be left at the head or other known office of business of each such company, a copy of every entry in his valuation roll wherein such company shall be set forth, either as proprietor, tenant, or occupier; and if such company consider themselves aggrieved by such valuation, they may obtain redress by satisfying such assessor of railways and canals, on or before the eighth day of April[6] next ensuing, that they have well-founded ground of complaint, and obtaining an alteration by him of his valuation accordingly, which alteration he is in such case authorised to make, or by lodging a note of appeal, on or before the tenth day of April,[6] to the Lord Ordinary officiating on the Bills in the Court of Session, or where the lands and heritages belonging to such company are all situated within one county, then to the Sheriff of such county; and all proceedings before such Lord Ordinary or Sheriff, as the case may be, under this Act, shall be summary, and may be taken either in Court or at chambers, and shall be conducted in such way as such Lord Ordinary or Sheriff respectively may prescribe or allow; and any deliverance which shall be pronounced by such Lord Ordinary or Sheriff, as the case may be, on such objections, on or before the fifteenth day of May[6] next after such appeal is entered and such objections are made, shall receive effect, and it shall be the duty of such assessor of railways and canals to alter his valuation in conformity therewith; and such deliverance, and the valuation of the said assessor of railways and canals, if not appealed against, or if appealed against in so far as not altered by a deliverance of the Lord Ordinary or Sheriff as aforesaid, shall be final and conclusive, and not subject to review.

If companies think themselves aggrieved they may appeal to Lord Ordinary.

Proceedings before Lord Ordinary, &c., to be summary.

Any parish, county, or burgh interested in any railway or canal valuation may appeal against the same to the Lord Ordinary.

XXV. The valuation roll to be made up by the assessor of railways and canals, while the same is in the hands of such assessor, shall be patent to all persons having interest therein, and no fee of any kind shall be charged to any such person for liberty to inspect the same; and it shall be competent to any parish, county, or burgh, having interest in any valuation therein contained, to object to and represent against the same to the Lord Ordinary officiating on the Bills in the Court of Session, or when the lands and heritages belonging to any railway or canal or other company included in such valuation roll are all situated within one county, then to the Sheriff of such county, and such Lord Ordinary or Sheriff, as the case may be, shall afford to the company to which such objection applies an opportunity of answering such objection, and may also, if he think it necessary or proper, afford such opportunity to the assessor of railways and canals, or to any person or persons whom he may consider to be interested in such objection; and any deliverance which shall be pronounced by him on such objections on or before the fifteenth day of May[7] next after such objections are made shall be given effect to, and be final and conclusive.

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[6] See 1894 Act, sec. 3 (57 & 58 Vict. c. 36).

Assessor of railways and canals may call for books and writings, &c., and if such are refused, right of appeal to be forfeited.

XXVI. For the purpose of making the valuations of the lands and heritages of railway and canal and other companies by the assessor of railways and canals under this Act, it shall be lawful for such assessor of railways and canals to require the attendance before him of any persons as witnesses, and to examine such witnesses on oath, and also to call from time to time upon any railway or canal or other company to be included in his valuation for detailed statements of the yearly revenue of its undertaking, distinguishing the different sources thereof, and the amount derived from each such source, and also in the case of railways and canals of the cost as aforesaid of each of its stations, wharfs, docks, depots, counting-houses, and other houses and places of business (including the *solum* on which such stations and others are erected), and also of the parishes, counties, and burghs in which such stations, wharfs, docks, depots, counting-houses, and other houses and places of business are severally situated, and of the lineal measurement of the whole, any, each, and every part of its line, and to call for production from time to time of any books, vouchers, or other writings in the possession of any railway or canal or other company relating to or bearing upon any matters aforesaid, or to or upon the subject of the inquiries of such assessor under this Act; and if any such company, or its manager or secretary, or the chairman of its board of directors, all for the time being, shall wilfully refuse or delay to furnish any such statements, or to make any such production, when required by the assessor of railways and canals as aforesaid, such company shall not be entitled to appeal against or object to the valuation of such assessor of railways and canals for the year in which such refusal or delay takes place, anything in this Act to the contrary notwithstanding.

Valuations of railways and canals, &c., when completed, to be authenticated, to the county clerks and town-clerks, and to be in force for one year.

XXVII. The valuation roll to be made up annually as aforesaid by the assessor of railways and canals under this Act shall, as soon as may be after the fifteenth day of May[8] in each year, be authenticated by the signature of such assessor, and such valuation roll shall then be in force as the valuation roll of railway and canal and other companies for the year commencing at the term of Whitsunday immediately preceding and ending at the term of Whitsunday immediately following; and the assessor of railways and canals under this Act shall thereupon transmit to the county clerk of each county and to the town-clerk of each burgh in which any portion of the undertaking of any such company is situated a certified copy of the valuation, in terms of this Act, taken from such valuation roll, of the lands and heritages within such county or burgh respectively belonging

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[7] See sec. 24, *supra.*

[8] See 1894 Act, sec. 5 (57 & 58 Vict. c. 36).

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to or leased by and forming part of the undertaking of such company; and such valuation relating to such company shall be engrossed by such county clerk or town-clerk, as the case may be, in the valuation roll of such county or burgh, and shall be authenticated by the signature of such county clerk or town-clerk, and shall be thenceforward deemed and taken to be a part of such valuation roll of such county or burgh.

Valuation rolls of railways and canals, &c., to be transmitted to the General Register House for preservation.

XXVIII. The valuation rolls of railway and canal and other companies, to be made up by the assessor of railways and canals in terms of this Act, shall be periodically transmitted by the assessor of railways and canals to the Lord Clerk Register, or his deputy, for preservation in the General Register House, in like manner as the valuation rolls of counties and burghs are hereinafter directed to be periodically transmitted as aforesaid.

Salary of the assessor of railways and canals to be contributed rateably by railway and canal companies, &c.

XXIX. The amount of the remuneration or salary of the assessor of railways and canals under this Act, and of his clerks and other officers as aforesaid, shall, on or before the eleventh day of November in each year, be paid by the railway and canal and other companies having lands and heritages included in the valuation of railways and canals for the year to which such remuneration or salary applies, to the commissioners of Her Majesty's Treasury,[9] or to such person or persons as they may appoint to receive the same, each company paying a proportion of such remuneration or salary corresponding to the yearly rent or value of its lands and heritages, ascertained in terms of this Act, as compared with the yearly rent or value of the whole lands and heritages in Scotland of railway and canal and other companies included in such valuation; and in case of any difference of opinion as to the proportions in which such remuneration or salary should be borne by such companies respectively, in terms of this Act, the same shall be determined by the commissioners of Her Majesty's Treasury,[9] whose award thereon shall be final; and on or before the thirty-first day of December in each year the said remuneration or salary received from such companies as aforesaid shall be paid over by the commissioners of Her Majesty's Treasury[9] to the assessor of railways and canals; and the proportion of such remuneration or salary payable by each such company, in terms of this Act, shall be deemed to be a debt due by such company to the Crown, and shall be recoverable in like manner as any other debt due to the Crown is recoverable by law.

Mistake or misnomer not to affect valuation.

XXX. No valuation of any lands or heritages contained in any valuation roll under this Act shall be rendered void or be affected by reason of any mistake or variance in the names of such lands or heritages, or in the christian or surname or designation of any proprietor or tenant or occupier thereof; and no valuation roll which shall be made up and authenticated in terms of this Act, and no valuation which shall be contained therein shall be challengeable, or be capable of being set aside or rendered ineffectual, by reason of any informality, or of any want of compliance with the provisions of this Act, in the proceedings for making up such valuation or valuation roll.

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[9] See Secretary for Scotland Act, 1885, sec. 5 (3).

Proprietors of subjects under £4 to be chargeable with assessments.

XXXI. In all cases where any lands or heritages shall be separately let at a rent not amounting to four pounds per annum, and the names of the occupiers thereof shall not have been inserted in the valuation roll, the proprietor of such lands and heritages shall be charged with and have to pay the whole of the assessments on such lands and heritages separately let as aforesaid; but every such proprietor charged with and paying such assessments shall have relief against the tenants and occupiers of such lands and heritages for reimbursements thereof, if and in so far as such assessments may by law be properly chargeable upon such tenants or occupiers.[10]

XXXII. . . . .

Other public assessments leviable on real rent to be levied upon valuations established by this Act.

XXXIII. Where, in any county, burgh, or town, any county, municipal, parochial, or other public assessment, or any assessment, rate, or tax under any Act of Parliament, is authorised to be imposed or made upon or according to the real rent of lands and heritages, the yearly rent or value of such lands and heritages, as appearing from the valuation roll in force for the time under this Act in such county, burgh, or town, shall, from and after the establishment of such valuation therein, be always deemed and taken to be the just amount of real rent for the purposes of such county, municipal, parochial, or other assessment, rate, or tax, and the same shall be assessed and levied according to such yearly rent or value accordingly, any law or usage to the contrary notwithstanding: Provided always, that when the area of any parish church heretofore erected has been allocated among the heritors, according to their respective valued rents as appearing upon the present valuation rolls, all assessments for the repair thereof shall be imposed according to such valued rent; and where in any county, burgh, or town, any county, municipal, parochial, or other public assessment, or any assessment, rate, or tax under any Act of Parliament, is or might be assessed upon means and substance, such assessment shall, from and after the establishment of valuations under this Act, be assessed and levied upon the yearly rent or value, in terms of this Act, of such lands and heritages within such county, burgh, or town, one-half upon the owners and the other half upon the tenants and occupiers of such lands and heritages, but subject to the provisions and exceptions hereinbefore made and provided as regards lands and heritages separately let at a rent not amounting to four pounds; and all Acts, laws, and usages to the contrary are hereby repealed in so far as necessary to give effect to this enactment, but no further.

XXXIV. . . . .

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[10] See sec. 7 (7) of House Letting and Rating (Scotland) Act, 1911 (1 & 2 Geo. V. c. 53); this section does not apply to small dwelling-houses as defined in that Act, *infra*, p. 190.

Act 1854.

Valuation rolls to be made up in prescribed form, and to be transmitted to the General Register House for preservation.

XXXV. The valuation rolls to be made up in terms of this Act shall be of such dimensions as may be prescribed by the Lord Clerk Register of Scotland, or his deputy;[1] and at the expiration of six years from the date of the passing of this Act, and at the expiration of every subsequent period of six years thenceforward, every county clerk and town-clerk or other person, being custodier of the valuation rolls of any county or burgh under this Act, shall transmit or cause to be transmitted to the said Lord Clerk Register or his deputy, in order to preservation thereof in the General Register House of Scotland, the whole valuation rolls of such county or burgh then completed, and not previously transmitted, other than the valuation rolls of such county or burgh in force for the time being.

XXXVI. . . . Provided always, that where more than one burgh contributes to send a member or members to Parliament, each such burgh shall notwithstanding be held to be distinct and separate burghs for the purposes of this Act; and the magistrates of each burgh respectively shall have and exercise all the powers herein conferred on magistrates of burghs: Provided also, that where the boundaries of any burgh are not prescribed by the before-recited Act of the second and third years of the reign of His Majesty King William the Fourth, the same shall be determined by the Sheriff of the sheriffdom in which such burgh is situated, or, if such burgh be situated partly in one county and partly in another, by the Sheriff of that sheriffdom in which the greater part of such burgh may be situated; and, as soon as may be after the passing of this Act, every Sheriff to whom such power of fixing the boundaries of any burgh for the purposes of this Act is hereby committed shall, by letter to be addressed by him to the chief or senior magistrate or other administrator on behalf of such burgh, require such magistrate or other administrator of such burgh to attend him at a time and place to be fixed in such letter, and shall likewise intimate the same to the convener or conveners of the county or counties in which such burgh is situated, and shall at such time and place, or at any time or place to which the Sheriff may adjourn the inquiry, take such evidence as may be adduced to him, or as he may think necessary, and shall thereupon, by writing under his hand, fix and determine the boundaries of such burgh for the purposes of this Act, and shall cause such written determination to be recorded in the Sheriff Court books of his county, and shall furnish an official extract therefrom to such magistrate or administrator, and to the county clerk or clerks of the county or counties within which such burgh is situated; and such determination shall, when so recorded, fix and determine the boundaries of such burgh for the purposes of this Act.

Recovery of penalties.

XXXVII. Every penalty imposed by this Act may be recovered by summary proceeding, upon complaint in writing made in name of an assessor under this Act to the Sheriff of the sheriffdom in which the offence shall have been committed, or to the Sheriff of any sheriffdom in which the offender may be found; and either upon the appearance or upon the default to appear of the party offending it shall be lawful for the Sheriff to proceed to the hearing of the complaint, and upon proof of the offence to convict the offender, and upon such conviction to decern and adjudge the offender to pay the penalty incurred, as well as such expenses as the Sheriff shall think fit, and to grant warrant for imprisoning the offender until such penalty and expenses shall be paid.

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[1] The form of the roll is now regulated by the Valuation Roll (Scotland) Order, 1929. See p. 223.

Application of penalties.

XXXVIII. The Sheriff by whom any penalty shall be imposed by virtue of this Act shall award such penalty to be applied for the purposes of this Act within the county or burgh in which the offence was committed, and shall order the same to be paid over to the complainer, or to some other person for that purpose.

Where assessments are levied under local Acts on a different valuation to that established by this Act, Sheriff of the county to fix percentage.

XXXIX. Where in any burgh or parish or county under any statute any assessment, rate, or tax of a fixed amount or percentage has been assessed upon or levied from the proprietors or tenants or occupiers of any lands and heritages, but according to a different valuation from that established by this Act, it shall be lawful for the Sheriff, on an application from any person or persons authorised to assess or levy such assessment, rate, or tax, or from any ratepayer within such county, burgh, or parish, to fix and determine, after such inquiry and notice as he shall think proper, what percentage, according to the valuation to be made under this Act, corresponds with and will yield as nearly as may be the sum which the percentage specified in such statute should yield according to the valuation hitherto in use to be made up under such statute, and the percentage so fixed by the Sheriff shall thereafter, subject to all legal rights, be held to be the percentage provided by such statute.

XL. . . . .

Liability to assessment not to be altered.

XLI. . . . nothing contained in this Act shall exempt from or render liable to assessment any person or property not previously exempt from or liable to assessment.

Interpretation clause.

XLII. The following words and expressions, when used in this Act, shall in the construction thereof be interpreted as follows, except when the nature of the provision or the context of the Act shall exclude or be repugnant to such construction; (that is to say) the expression " lands and heritages " shall extend to and include all lands, houses, shootings, and deer forests [where such shootings or deer forests are actually let],[2] fishings, woods, copse, and underwood from which revenue is actually derived, ferries, piers, harbours, quays, wharfs, docks, canals, railways, mines, minerals, quarries, coalworks, waterworks, limeworks, brickworks, ironworks, gasworks, factories, and all buildings and pertinents thereof, and all machinery fixed or attached to any lands or heritages:[3] Provided always, that no mine or quarry shall be assessed unless it has been worked during some

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[2] Repealed (49 & 50 Vict. c. 15, sec. 4).

[3] See 1902 Act (2 Edw. VII. c. 25), sec. 1.

Act 1854.

part of the year to which such assessment applies; the word "proprietor" shall apply to liferenters as well as fiars, and to tutors, curators, commissioners, trustees, adjudgers, wadsetters, or other persons who shall be in the actual receipt of the rents and profits of lands and heritages; the word "factor" shall mean a person acting under a probative factory and commission for the proprietor or proprietors, including corporations being proprietors, for whom he is a factor, and in the *bona fide* actual management as such factor of the lands and heritages belonging to such proprietor; the word "burgh" shall apply only to a city, burgh, or town, being a royal burgh, or which sends or contributes as a burgh to send a member to Parliament; the expression "magistrates of burghs" shall include the lord provost, or provost, or chief magistrate and magistrates and councils of burghs, and all persons being members for the time of such magistracy or council; the word "town" shall extend to and include all burghs, as well royal and parliamentary burghs as burghs of barony or regality, and all other burghs whatsoever, and generally all places situate within a county forming an area of assessment distinct from such county; the word "county" shall include and apply to a county exclusive of the burghs situated therein; the expression "the assessor" shall mean the assessor under this Act of the county or burgh or portion or district of the county or burgh for which he is assessor, as distinguished from the assessor of railways and canals under this Act.

Act 1857.

THE LANDS VALUATION (SCOTLAND) AMENDMENT ACT, 1857.

(20 & 21 Vict. c. 58.)

An Act to amend the Act Seventeenth and Eighteenth of Victoria, for the valuation of lands in Scotland.

[25th August, 1857.]

17 & 18 Vict. c. 91.

Whereas an Act was passed in the seventeenth and eighteenth years of Her Majesty's reign, chapter ninety-one, for the valuation of lands and heritages in Scotland, and it is expedient to amend the said Act as hereinafter mentioned: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to county council and magistrates to appoint officers of Inland Revenue to be assessors.

I. It shall be lawful for the county council of each county and the magistrates of each burgh in Scotland respectively, if they shall think fit, to appoint the officer or officers of Inland Revenue, having the survey of the income tax within such county or burgh, to be the assessors or assessor for the purpose of the said Act; and such officer or officers when so appointed, as long as such appointments remain unrecalled, shall in all respects and for all the purposes aforesaid stand in the place of, and shall have, use, exercise, and perform all the powers and duties of the person or persons whom the said county council and magistrates respectively are authorised to appoint for the like purposes, under or by virtue of the third section of the said Act; and in such case the expense attending the making up of valuation rolls by such officer or officers shall be defrayed by the Commissioners of Inland Revenue, or as the Commissioners of Her Majesty's Treasury shall direct in that behalf.

Persons charged may appeal.

Officer of Inland Revenue or appellant, if dissatisfied with decision of county council or magistrates, may demand a case for the opinion of the judges.

II. All persons entitled to appeal against valuations made by the assessors appointed under the said Act shall also be entitled to appeal, under and subject to the like rules and regulations, against the valuations to be made by such officer or officers of Inland Revenue appointed as aforesaid under this Act; and if upon any such appeal any officer of Inland Revenue or the person appealing shall apprehend the determination of the said county council or magistrates hearing such appeal to be contrary to the true intent of the said Act, and shall then declare himself dissatisfied with such determination, it shall be lawful for such officer or appellant respectively to require the said county council or magistrates to state specially and to sign the case upon which the question arose, together with the determination thereupon, and to transmit such case to the Commissioners of Inland Revenue, to the end that the same may be submitted to the Senior Lord Ordinary and the Lord Ordinary officiating in Exchequer Causes in the Court of Session, for their opinion thereon; and such judges to whom such case may be submitted shall with all convenient speed give and subscribe their opinion thereon, and according to such opinion the valuation or assessment which shall have been the cause of the appeal shall be altered or confirmed.[1]

If county council or magistrates do not appoint officers of Inland Revenue to be assessors, valuations not to be conclusive against assessments.

III. Provided always, that if in any county or burgh the said county council or magistrates shall not appoint the officers of Inland Revenue to be such assessors as aforesaid, then no valuation made under the said Act by any other assessor or assessors shall be conclusive against or for the purpose of reducing, on appeal or otherwise, any assessment, rate, or charge under any Act of Parliament relating to the duties of excise, or the land tax, or income tax, or any other duties, rates, or taxes under the care or management of the Commissioners of Inland Revenue.

Town of Maxwelltown to be deemed part of the Stewartry of Kirkcudbright for purposes of recited Act.

IV. Whereas the town of Maxwelltown is locally situated within the Stewartry of Kirkcudbright, but for certain purposes has been included within the parliamentary boundaries of the burgh of Dumfries, and doubts have arisen whether the said town of Maxwelltown lying within the said parliamentary boundaries is to be deemed for the purposes of the said recited Act within the said Stewartry, and it is expedient that such doubts should be removed: Be it therefore enacted, that for the purposes of the said recited Act, and of levying, collecting, and

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[1] See 1867 Act, sec. 8 (30 & 31 Vict. c. 80); 1879 Act, secs. 7, 8, and 9 (42 & 43 Vict. c. 42); and Local Government (Scotland) Act, 1908 (8 Edw. VII. c. 62), sec. 7 (2).

Act 1857. enforcing all assessments, rates, and taxes which the county council of the said Stewartry are required or authorised to impose or levy, the said town of Maxwelltown shall be deemed and taken to form part of the said Stewartry, and the owners and occupiers of lands and heritages within the said town shall be liable for and shall pay all assessments, rates, and taxes imposed and levied as aforesaid within the Stewartry, any law or practice to the contrary notwithstanding: Provided always, that nothing herein contained shall affect, except as herein provided, any rights, privileges, or immunities belonging to or claimed by the owners and occupiers of lands and heritages in the said town of Maxwelltown, and this section shall be held to extend to and include all those portions of the parishes of Terregles and Troqueer which are within the parliamentary boundaries of the burgh of Dumfries.

Act 1867.

VALUATION OF LANDS (SCOTLAND) AMENDMENT ACT, 1867.

(30 & 31 Vict. c. 80.)

An Act to define the duties of the assessor of railways in Scotland in making up the valuation roll of railways, and to amend in certain respects the Valuation of Lands (Scotland) Acts. [12th August, 1867.]

17 & 18 Vict. c. 91. 20 & 21 Vict. c. 58.

Whereas an Act was passed in the seventeenth and eighteenth years of Her Majesty's reign, chapter ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland," and another Act was passed in the twentieth and twenty-first years of Her Majesty's reign, chapter fifty-eight, intituled "An Act to amend the Act seventeenth and eighteenth Victoria, for the valuation of lands in Scotland":

And whereas it is expedient to farther define the duties of the assessor of railways in Scotland in making up the valuation rolls of railways under the first-recited Act, and to amend in certain other respects the provisions of both the recited Acts:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

I. This Act shall be cited for all purposes as "The Valuation of Lands (Scotland) Amendment Act, 1867."

Definition of term.

II. The term "permanent way" in this Act shall mean and include the line or lines of railway, bridges under and over the same, viaducts, tunnels, fences, and ditches, along the said lines, signals and apparatus connected therewith.

One-half of expense of maintaining

III. In ascertaining the yearly rent or value in terms of the first-recited Act of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway company, and forming part of the undertaking of such company, one-half of the expenses incurred in maintaining or repairing the permanent way of railways, and charged to revenue in the published accounts of such railway company for the year preceding that for which the valuation is made, shall be allowed by the assessor of railways and canals as a deduction before the *cumulo* yearly rent or value of each railway is fixed, provided that such assessor is satisfied that such expenses have been truly expended in maintaining or repairing the permanent way of each such railway: Provided always, that the cost of repairs of stations, engine houses, workshops, wharfs, docks, depots, counting-houses, and other houses and places of business belonging to or leased by any railway company, and forming part of the undertaking of such company, shall not be deemed to be expenses to be allowed by the said assessor in terms of this section.

permanent way of railways to be deducted by assessor of railways and canals before fixing *cumulo* value of railway.

IV. Whereas the twenty-second section of the first-recited Act, in providing the mode of ascertaining the yearly value or rent of the lands and heritages in any parish, county, or burgh belonging to or leased by any railway or canal company, and forming part of the undertaking of such company, fixed the deduction to be made from the *cumulo* yearly value or rent of the whole lands and heritages in Scotland as aforesaid of each such railway or canal company in respect of the cost of the stations, wharfs, docks, depots, counting-houses, and other houses and places of business in Scotland, of and connected with the undertaking of such company, at a sum equal to three pounds per centum of the whole cost thereof: And whereas such deduction was fixed at too small a sum, and should for the future be increased: Be it enacted as follows:

Amendment of sec. 22 of 17 & 18 Vict. c. 91 as to stations, &c.

The twenty-second section of the first-recited Act shall be read and construed as if the words "five pounds per centum" were substituted for the words "three pounds per centum" wherever these latter words occur in the said section of the said first-recited Act.

V.[1] The assessor of railways and canals shall, if required as hereinafter provided, specify and assign separately the value of those portions of railways included within the limits of burghs, towns, or populous places[2] (not being burghs in the sense of the twenty-seventh section of the first-recited Act, which section shall remain in full force and effect) which have adopted or shall hereafter adopt the provisions of the Acts of the thirteenth and fourteenth Victoria, chapter thirty-three, or of the twenty-fifth and twenty-sixth Victoria, chapter one hundred and one, or in which any local Police Act is or may hereafter be in force: Provided always, that it shall not be necessary for the said assessor to assign separately the value of the portions of railways included within the limits of any burgh, town, or populous place, in terms of this

Separate valuation to be assigned, if required before 1st November in each year, to towns and populous places in which a General or Local Police Act is in force.

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[1] The provisions of this section now apply to the valuations of waterworks, gasworks, and other undertakings which are now made up by the Assessor of Railways (1887 Act, sec. 2 (50 & 51 Vict. c. 51)).

[2] See Local Government (Scotland) Act, 1894 (57 & 58 Vict. c. 58), sec. 45 (2).

Act 1867.

section, unless on or before the first day of November[3] in each year the town-clerk or clerk of the commissioners or trustees of police thereof, as the case may be, shall have required him so to assign the same; and such town-clerk or clerk of the commissioners or trustees of police, when making such requisition, shall be bound to state the lineal measurement of the portions of the railway or railways belonging to or leased by any railway company,[4] and forming part of the undertaking thereof, situated within the limits of such burgh, town, or populous place, and the assessor shall satisfy himself as to the correctness of such measurement; and the said assessor, immediately on the completion of the valuation roll made up by him under the recited Acts and this Act, shall transmit to each town-clerk or clerk of the commissioners or trustees of police so requiring him as aforesaid a certified copy of the valuation, taken from such valuation roll, of the lands and heritages within such burgh, town, or populous place, as the case may be, belonging to or leased by and forming part of the undertaking of such company,[4] and such valuation relating to such company[4] shall be engrossed by such town-clerk or clerk of the commissioners or trustees of police, as the case may be, in the roll or book of assessment of such burgh, town, or populous place made up in terms of the Acts of the thirteenth and fourteenth Victoria, chapter thirty-three, or of the twenty-fifth and twenty-sixth Victoria, chapter one hundred and one, or of the local Act in force in such burgh, town, or populous place; and such valuation shall be authenticated by the signature of such town-clerk or clerk of the commissioners or trustees of police, as the case may be, and shall be thenceforward deemed and taken to be a part of such roll or book of assessment of such burgh, town, or populous place, as the case may be.

Valuation roll of railways made up by assessor of railways and canals to be open for inspection, &c.

VI. The valuation roll to be made up by the assessor of railways and canals, while in the hands of such assessor, shall be patent and accessible to all persons having interest therein, and the assessor shall, when required by any such person, exhibit to him a statement showing the principles and calculations on which the valuation of such assessor is founded, without payment of any fee; and pending the consideration of any appeal against the valuation of such assessor, he shall, if required, be bound to lodge the said statement in Court six days before such appeal is to be heard.

Time for lodging appeals against assessor's entries in valuation roll.

VII. All appeals or complaints against any entry in the valuation rolls made up in terms of the said recited Acts and of this Act, either by the assessors appointed by the county council of any county, or by the magistrates of any burgh, or by the assessor of railways and canals, shall, except as after provided, be lodged not later than tenth day of September[5] in each year, and every such appeal or complaint shall, except as aforesaid, be heard and determined not later than the thirtieth day of September[6] in each year.

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[3] 1894 Act, sec. 4 (57 & 58 Vict. c. 36).

[4] The provisions of this section now apply to the valuations of waterworks, gasworks, and other undertakings which are now made up by the Assessor of Railways (1887 Act, sec. 2 (50 & 51 Vict. c. 51)).

[5] See 1894 Act, sec. 3 (57 & 58 Vict. c. 36), which substitutes 10th April as the day on or before which all appeals and complaints against entries in the Railway Assessor's roll must be lodged.

Sec. 2 of 20 & 21 Vict. c. 58 amended as herein stated.

VIII. The second section of the second-recited Act is hereby amended to the effect of providing that hereafter the judges to whom the case therein referred to shall be submitted, instead of being the Senior Lord Ordinary and the Lord Ordinary officiating in Exchequer Causes in the Court of Session, shall be any three[7] judges in the said Court, who shall be named for that purpose from time to time by Act of Sederunt of the said Court: Provided always, that any valuation which shall have been confirmed or altered in conformity with the opinion of said judges shall thereafter be final and not subject to review in any manner of way.

Liability to assessment not to be altered by this Act.

IX. Nothing contained in this Act shall alter or affect any classification or power of classification, or any deduction or allowances, or power of making deductions or allowances from gross rental or annual value, made or possessed by any body, persons, or person, entitled to impose or levy assessments, except that in estimating the amount of such deductions or allowances there shall not be allowed or included therein the proportion of the expenses of maintaining or repairing the permanent way of railways to be allowed by the assessor of railways and canals in terms of section third of this Act; and nothing contained in this section shall affect the value to be inserted in the valuation roll of railways and canals in terms of this Act; and nothing contained in this Act shall exempt from or render liable to assessment any person or property not previously exempt from or liable to assessment.

X. . . . .

XI. . . . .

XII. . . . .

Act 1879.

VALUATION OF LANDS (SCOTLAND) AMENDMENT ACT, 1879.

(42 & 43 Vict. c. 42.)

An Act to amend the Acts relating to the valuation of lands and heritages in Scotland. [11th August, 1879.]

Whereas an Act was passed in the session of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter

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[6] See 1894 Act, sec. 3 (57 & 58 Vict. c. 36): all appeals and complaints against entries in the Railway Assessor's roll must be disposed of by 15th May.

[7] See Local Government (Scotland) Act, 1908 (8 Edw. VII. c. 62), sec. 7 (2).

Act 1879.

ninety-one, intituled "An Act for the valuation of lands and heritages in Scotland"; and another Act was passed in the session of the twentieth and twenty-first years of the said reign, chapter fifty-eight, intituled "An Act to amend the Act seventeenth and eighteenth of Victoria, for the valuation of lands in Scotland"; and another Act was passed in the session of the thirtieth and thirty-first years of the said reign, chapter eighty, intituled "An Act to define the duties of the assessor of railways in Scotland in making up the valuation roll of railways, and to amend in certain respects the Valuation of Lands (Scotland) Acts"; and it is expedient to amend the recited Acts as hereinafter provided:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and extent of Act.

1. This Act may be cited for all purposes as the Valuation of Lands (Scotland) Amendment Act, 1879, and shall extend to Scotland only.

2. . . . .

Recited Acts and this Act to be construed together.

3. The recited Acts and this Act shall be read and construed together, and may together be referred to as the Valuation of Lands (Scotland) Acts.

County valuation committee to be appointed.

4. From and after the commencement of this Act appeals and complaints under the Valuation of Lands (Scotland) Acts to the county council in any county in Scotland shall not be heard and determined by the general body of the county council of such county, but shall be heard and determined by a standing committee of such county council, to be called the county valuation committee. The determination of a county valuation committee shall, for all purposes, be deemed to be the determination of the county council by whom it is appointed.

Provisions in regard to a county valuation committee.

5. The following provisions shall have effect with respect to the appointment and proceedings of a county valuation committee; that is to say,

(1) The county council shall annually at their general meetin May,[1] or at any adjournment thereof, appoint from among themselves a county valuation committee, or they may appoint more than one such committee, and assign to any such committee such area of jurisdiction as they may think expedient:

(2) A county valuation committee shall consist of not less than five nor more than twenty members:

(3) A county valuation committee may from time to time fix the times and places of their meetings, of which notice

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[1] By sec. 73 of the Local Government (Scotland) Act, 1889 (52 & 53 Vict. c. 52) the general meeting of the County Council in the month of May shall be deemed to come in place of the annual statutory meeting of the Commissioners of Supply held in April or May.

shall be given by the county clerk of the county, in the same manner as notice is for the time given of meetings of the county council :

. . . .

(5) Any vacancy arising in any such committee from death, resignation, or other cause, may be from time to time filled up by the committee :

Any such committee may, if a quorum exists, act, notwithstanding vacancies therein :

. . . .

(8) The county clerk of the county shall be the clerk of the county valuation committee, or of each such committee if there be more than one, and shall perform all such duties in relation to any such committee or committees as he is required by law to perform in relation to the county council in general meeting assembled.

As to complaints made with regard to entries other than statement of value in valuation rolls.

6. It shall be lawful for any person interested to complain to the county council of any county or to the magistrates of any burgh under the Valuation of Lands (Scotland) Acts, to the effect that any particular set forth in any entry in the valuation roll for such county or burgh, as the case may be, other than the yearly rent or value of the lands and heritages to which such entry refers, has been set forth erroneously therein; and such complaint shall be made and disposed of in the same manner and subject to the same conditions and provisions (except in regard to the right of requiring a case to be stated) in and under which complaints that such yearly rent or value has been stated by the assessor in such valuation roll at other than the just and true amount thereof may be made and disposed of.

Where assessors not officers of Inland Revenue, case may be demanded for opinion of two judges of Court of Session.

7. In the case of persons entitled to appeal against valuations made by assessors under the Valuation of Lands (Scotland) Acts who are not officers of Inland Revenue appointed under the second recited Act, it shall be lawful for such person appealing, or for such assessor, if he shall apprehend the determination of the county council in any county, or the magistrates of any burgh, upon such appeal as to the yearly rent or value of the lands and heritages to which such appeal relates, to be contrary to the true intent of the said Acts, and shall then declare himself dissatisfied with such determination, to require the said county council or magistrates to state specially and to sign the case upon which the question arose, setting forth the facts proved, together with the determination thereupon, and to transmit such case to the Commissioners of Inland Revenue, to the end that the same may be submitted to any three[2] judges in the Court of Session, who shall be named for that purpose from time to time by Act of Sederunt of the said Court, for their opinion thereon; and such judges to whom such case may be submitted, shall with all convenient speed, give and subscribe their opinion thereon, and, according to such

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[2] See Local Government (Scotland) Act, 1908 (8 Edw. VII. c. 62), sec. 7 (2).

Act 1879.

opinion, the valuation or assessment which shall have been the cause of the appeal shall be altered or confirmed.

The cases under this section, and also under the recited Acts, may be disposed of by the judges in time of session or vacation, and in Court or at chambers, and after hearing parties or not, at their discretion.

Evidence to be taken in shorthand writing if required.

8. Either party to any appeal or complaint to the county council of any county, or the magistrates of any burgh, under the Valuation of Lands (Scotland) Acts, may, at the hearing of such appeal or complaint, require the evidence to be taken in shorthand writing at his expense, and in that event such evidence shall be taken accordingly.

Case to set forth grounds of appeal, &c.

9. In stating any case, the county council of any county, or the magistrates of any burgh, as the case may be, shall, in addition to the particulars now required to be stated, set forth the grounds of appeal or complaint, and the replies thereto in such terms as shall be submitted to them by the parties within ten days after the determination appealed against; and a certified copy of any evidence taken as aforesaid shall be submitted, along with the case, to the said judges who may, if they think fit to do so, remit the case to the county council or magistrates by whom it was stated, with such instructions as the said judges may consider necessary for having the case more fully stated.

10. . . . .

Act 1886.

SPORTING LANDS RATING (SCOTLAND) ACT, 1886.

(49 Vict. c. 15.)

An Act to amend the law as to the rating of lands occupied for sporting purposes in Scotland. [10th May, 1886.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

1. . . . .

Interpretation clause.

2. The expression "the Valuation Acts" shall mean the Act seventeenth and eighteenth Victoria, chapter ninety-one, and any Acts amending the same.

The expression "the assessor" shall mean the assessor appointed and acting under the Valuation Acts.

The expression "the Poor Law Act" shall mean the Act eighth and ninth Victoria, chapter eighty-three.

Construction of Act.

3. This Act shall be read and construed along with the Valuation Acts and the Poor Law Act.

Act 1886.

4. The forty-second section of the Act seventeenth and eighteenth Victoria, chapter ninety-one, shall be read and construed as if the words " where such shootings or deer forests are actually let " were not therein contained.

Amendment of 17 & 18 Vict. c. 91, sec. 42.

5. The first section of the Poor Law Act shall be read and construed as if the definition of " lands and heritages " therein expressly referred to and included shootings and deer forests.

Amendment of 8 & 9 Vict. c. 83, sec. 1.

6. In order to ascertain and assess under the Valuation Acts the yearly value of shootings and deer forests in Scotland, it shall be the duty of the assessor to enter separately for each parish, and in respect of each proprietor therein, the yearly value of the shootings over the lands and of the deer forests belonging to him in so far as situated within such parish.

Valuation of shootings and deer forests.

7. All county, parochial, or other public assessments, and all assessments, rates, or taxes, under any Act of Parliament, authorised to be imposed or made upon or according to the annual value of lands and heritages ascertained under the Valuation Acts, or upon or according to the annual value of lands and heritages ascertained under the Poor Law Act, shall be imposed or made upon or according to the annual value of shootings and deer forests ascertained under the Valuation Acts, as amended by this Act, or upon the annual value thereof ascertained under the Poor Law Act, as amended by this Act, as the case may be.

Rating of shootings and deer forests.

8. This Act may be cited for all purposes as the Sporting Lands Rating (Scotland) Act, 1886.

Short title.

VALUATION OF LANDS (SCOTLAND) AMENDMENT ACT, 1887.

Act 1887.

(50 & 51 Vict. c. 51.)

An Act to amend the Valuation of Lands (Scotland) Amendment Act, 1867. [16th September, 1887.]

Whereas an Act was passed in the thirtieth and thirty-first years of Her Majesty's reign, chapter eighty, to define the duties of the assessor of railways in Scotland in making up the valuation roll of railways:

And whereas it is expedient to further define the duties of the assessor of railways in Scotland in making up the valuation rolls of waterworks, gasworks, or other undertakings, the duty of making up the valuations of which said waterworks, gasworks, or other undertakings, is now or may hereafter be imposed upon him:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act shall be cited for all purposes as the Valuation of Lands (Scotland) Amendment Act, 1887.

Short title.

Act 1887.

Sec. 5 of 30 & 31 Vict. c. 80 to apply to waterworks, &c.

2. The provisions of section five of the said Act of the thirtieth and thirty-first years of the reign of Her present Majesty, chapter eighty, set forth in the schedule hereto annexed, which at present apply to railways only shall be extended, and shall be held to apply to the valuations of all waterworks, gasworks, and other undertakings, the valuations of which are now, or may hereafter be, made up by the said assessor of railways.

SCHEDULE.

Valuation of Lands (Scotland) Amendment Act, 1867 (30 & 31 Vict. c. 80), sec. 5, *supra*, p. 167.

Act 1889.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1889.

(52 & 53 VICT. c. 50.)

An Act to amend the laws relating to local government in Scotland. [26th August, 1889.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Local Government (Scotland) Act, 1889.

Extent of Act.

2. This Act shall extend to Scotland only.

PART I.

CONSTITUTION AND POWERS OF COUNTY COUNCIL.

. . . .

Powers of Council.

Transfer to county council of powers of commissioners of supply, road trustees, &c.

11. Subject to the provisions of this Act there shall be transferred to and vested in the council of each county, on and after the appointed day, or at such times as are in this Act in that behalf respectively specified:—

(1) The whole powers and duties of the commissioners of supply, save as hereinafter mentioned;

(2) The whole powers and duties of the county road trustees;

40 & 41 Vict. c. 68.

(3) The whole powers and duties of the local authority of the county under the Contagious Diseases (Animals) Acts and the Destructive Insects Act, 1877;

(4) The whole powers and duties of the local authorities under the Public Health Acts of parishes so far as within the county (excluding burghs and police burghs); and

(5) The administrative powers and duties of the justices of the peace of the county in general or special or quarter sessions assembled in respect of the several matters following, namely:

(i) The execution as local authority of the Acts relating to gas meters, to explosive substances, to weights and measures, to habitual drunkards, and to wild birds;

(ii) The appointment of visitors of public, private, or district lunatic asylums; and

(iii) The registration of rules of scientific societies under the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter thirty-six.

All powers and duties of the justices of the peace not transferred by this Act to the county council shall be reserved to and transacted by such justices in the same manner, so far as circumstances admit, as if this Act had not passed.

The provisions of any Act of Parliament conferring, imposing, or regulating the powers and duties by this Act transferred or regulating the proceedings under any such Act shall remain in full force and effect, except in so far as they are repealed by or are inconsistent with the provisions of this Act.

. . . .

Officers.

Clerk of the county council.

83.—(1) The clerk of supply in office at and after the passing of this Act shall, subject to the provisions of this Act, discharge all the duties of county clerk until the appointed day, and upon such day the clerk of supply in office shall become the clerk of the county council (in this Act referred to as the county clerk or clerk of the county council), and shall continue in office for twelve months after the first meeting of the council, unless he shall sooner vacate office by death, resignation, or disqualification. At the expiration of such period he shall continue in office during the pleasure of the county council.

(2) In addition to any other rights and duties conferred or imposed on him by the council, the county clerk shall, after the appointed day and subject to the provisions of this Act, have and discharge the rights and duties now belonging to or devolving on the clerk of supply and county road clerk, and all things authorised or required to be done by or to the clerk of supply and county road clerk may be done by or to the county clerk.

Provided that the county council may continue in office the county road clerk in office at the appointed day, and such county road clerk shall act as county clerk in so far as regards the administration of the laws relating to highways, and after he ceases to hold office his duties as aforesaid shall devolve on the county clerk.

Provided also that the county council may appoint any

Act 1889.

assessor (not being an officer of Inland Revenue) in office at the appointed day to be collector of the consolidated rates.

(3) Subject to the provisions of sub-section (1) of this section, the county council may from time to time appoint a county clerk, treasurer, collector or collectors, assessors, surveyors, and such other inspectors, officers, and servants as may be necessary and proper for the efficient execution of the duties of the county council, and may make regulations with respect to the duties of such county clerk, treasurer, collectors, assessors, surveyors, inspectors, officers, and servants. If it is deemed expedient one person may be appointed to fill two or more offices, and two or more persons may be appointed jointly to fill one office.

Provided that where the assessor is an officer of Inland Revenue any regulations made by the county council with respect to his duties shall be subject to the approval of the Treasury.

(4) After the passing of this Act it shall not be lawful to appoint an officer of Inland Revenue to be assessor without the previously obtained consent of the Treasury, and an appointment made without such consent shall have no force or effect: Provided that such consent shall not be necessary in the case of the re-appointment as assessor for any county or burgh of any officer of Inland Revenue, who is at the passing of this Act assessor for such county or burgh.

(5) It shall not be lawful to appoint a county councillor or the partner in business of a county councillor to any office or place of profit under the county council or any committee in this Act mentioned; and the disqualification shall apply to any person and his partners in business during six months next after such person has ceased to be a county councillor.

(6) The council shall pay to the county clerk, county road clerk, treasurer, collectors, assessors, surveyors, inspectors, officers, and servants continued appointed or employed by them, such reasonable salaries, wages, or allowances as they think proper, and every such county clerk, county road clerk, treasurer, collector, assessor, surveyor, inspector, officer, and servant shall, subject to the provisions of this Act, hold office during the pleasure of the council, by which he was appointed.

Provided that where the assessor is an officer of Inland Revenue the amount of the salary, wages, or allowances awarded to him shall be subject to the approval of the Treasury.

(7) The council may at any time discontinue the appointment of any inspector, officer, or servant appearing to them not necessary to be reappointed; and may from time to time make such arrangements as they think necessary as to the offices required to be created or abolished.

. . . .

Savings.

Saving for votes at any parliamentary elections.

95. Nothing in this Act, nor anything done in pursuance of this Act, shall alter the limits of any parliamentary county or burgh or division, or the right of any person to be registered as a voter or to vote at any parliamentary election, . . .

. . . .

Act 1894.

VALUATION OF LANDS (SCOTLAND) AMENDMENT ACT, 1894.

(57 & 58 Vict. c. 36.)

An Act to amend the Valuation of Lands (Scotland) Acts in regard to the duties of the Assessor of Railways and Canals. [17th August, 1894.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act shall be cited for all purposes as the Valuation of Lands (Scotland) Acts Amendment Act, 1894.

Assessor to make up valuation roll of railways and canals annually by 15th March.

17 & 18 Vict. c. 91.
30 & 31 Vict. c. 80.
50 & 51 Vict. c. 51.

2. For the purposes of the valuation roll to be made up by the assessor of railways and canals (hereinafter called the assessor) in terms of the following Acts, viz., the Lands Valuation (Scotland) Act, 1854, the Valuation of Lands (Scotland) Amendment Act, 1867, and the Valuation of Lands (Scotland) Amendment Act, 1887 (hereinafter called the recited Acts), for the year ending Whitsunday, one thousand eight hundred and ninety-six, and subsequent years, in place of the fifteenth day of August, as provided by the twenty-first section of the first recited Act, there shall be substituted the fifteenth day of March as the day on or before which the assessor shall inquire into and fix *in cumulo* the yearly rent or value of all lands and heritages in Scotland belonging to or leased by each railway and canal company, and forming part of its undertaking; and in place of the fifteenth day of May, as provided in the twenty-third section of the said first recited Act there shall be substituted the fifteenth day of November previously as the day on or before which intimations of the desire of any water company, or gas company, or other company having any continuous lands and heritages liable to be assessed in more than one parish, county, or burgh, to have such lands and heritages assessed, shall be made to the Sheriff.

Valuation roll to be transmitted by assessor by 15th March, &c.

30 & 31 Vict. c. 80.

3. In place of the fifteenth day of August, as provided by the twenty-fourth section of the Act seventeen and eighteen Victoria, chapter ninety-one, there shall be substituted the fifteenth day of March as the day on or before which in each year the assessor shall, in terms of the recited Acts, transmit to each railway and canal and other company included in his valuation a copy of the entries in his roll; and in place of the eighth day of September there shall be substituted the eighth day of April as the day on or before which any company considering themselves aggrieved by such valuation may obtain redress by satisfying such assessor that they have well-founded ground of complaint, and obtain an alteration by him of his valuation accordingly; and in place of the tenth day of September, as provided by the seventh section of the Valuation of Lands (Scotland) Amendment Act, 1867, there shall be substituted the tenth day of April as the day on or before which all appeals or complaints against any entry in the valuation

Act 1894.

roll by such railway, canal, or other company, or by any parish, county, or burgh, shall be lodged; and all such appeals or complaints against, and objections to, any such valuation shall be heard and determined and any deliverance pronounced on or before the fifteenth day of May following.

Requisition for separate valuations to be made by 1st November annually. 30 & 31 Vict. c. 80. 50 & 51 Vict. c. 51.

4. In place of the first day of April, provided by the fifth section of the Valuation of Lands (Scotland) Amendment Act, 1867, and the second section of the Valuation of Lands (Scotland) Amendment Act, 1887, there shall be substituted the first day of November in each year, as the day on or before which the town-clerk or clerk of the commissioners or trustees of police of any burgh, town, or populous place, as defined by the said section, shall require the assessor of railways and canals to specify and assign the valuation of railways, canals, and other undertakings separately in the valuation roll, in so far as situated within the limits of any such burgh, town, or populous place.

Authentication of valuation roll by assessor and transmission to persons interested.

5. The valuation roll to be made up annually by the assessor of railways and canals under the recited Acts and this Act shall, as soon as may be after the fifteenth day of May in each year, be authenticated by the signature of such assessor, and such valuation roll shall then be in force as the valuation roll of railway and canal and other companies for the year commencing at the term of Whitsunday, being the said fifteenth of May, and the said assessor shall thereupon transmit to each county, burgh, town, or populous place, certified copies thereof, as provided in the said recited Acts.

This Act not to affect dates for exacting payment of assessments from railway and other companies.

6. Nothing in this Act contained shall alter or affect the dates on which payment may be demanded or exacted of any assessment, rate, or tax chargeable upon or according to the valuation appearing in the valuation roll of railways, canals, and other undertakings, and such assessment, rate, or tax shall, notwithstanding the earlier completion of such valuation roll, as by this Act provided, be demanded or exacted in respect of such undertakings only when demanded or exacted in respect of other lands and heritages, and not earlier than it could be demanded or exacted if the said valuation roll of railways, canals, and other undertakings were completed at the same date as the valuation roll of all other lands and heritages.

Extension of meaning of word company.

7. For the purposes of the valuation roll to be made up by the assessor of railways and canals for the year ending Whitsunday, one thousand eight hundred and ninety-five, and subsequent years, the provisions of sections twenty to twenty-nine inclusive of the Act seventeen and eighteen Victoria, chapter ninety-one, and of any Act amending the same, and of this Act, shall extend to and include such railways, tramways, canals, waterworks, gasworks, and other undertakings belonging to, or leased or occupied by, any corporation, burgh commissioners, trustees, or local authority as are referred to in the said sections, and the words companies and company occurring therein shall be read accordingly.

Partial repeal of recited Acts.

8. The recited Acts, and all other laws, statutes, and usages, shall be, and the same are hereby, repealed, in so far as necessary to give effect to the provisions of this Act, but in all other respects they shall remain in full force and effect.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1894.

Act 1894.

(57 & 58 Vict. c. 58.)

An Act to establish a Local Government Board for Scotland, and make further provision for local government in Scotland, and for other purposes. [25th August, 1894.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 52 & 53 Vict. c. 50.

1. This Act may be cited as the Local Government (Scotland) Act, 1894, and this Act, and the Local Government (Scotland) Act, 1889 (hereinafter called the principal Act), shall, except as otherwise provided by this Act, be construed as one Act, and may be cited together as the Local Government (Scotland) Acts.

Extent of Act.

2. This Act shall extend to Scotland only.

. . . .

Valuation roll to show special districts.

20 & 21 Vict. c. 72.

45.—(1) The assessor of a county in making up the valuation roll of the county shall distinguish in the valuation roll lands and heritages situated within the boundaries of each police burgh, each police district formed under section fifty-eight of the Police Act, 1857, each special water supply and special drainage district, each special district formed under section forty-four of this Act, each special pier and harbour district formed under the Orkney and Zetland Small Piers and Harbours Act, 1896, and any part of a parish for which a landward committee is constituted in terms of this Act.

30 & 31 Vict. c. 80. 50 & 51 Vict. c. 51.

20 & 21 Vict. c. 72.

(2) The provisions of section five of the Valuation of Lands (Scotland) Amendment Act, 1867, as extended by the Valuation of Lands (Scotland) Amendment Act, 1887, with regard to separate valuations of portions of railways, waterworks, gasworks, and other undertakings included within the limits of burghs, towns, or populous places, shall extend to counties outwith the boundaries of police burghs in like manner as if they were herein re-enacted with the substitution of the expression "county clerk" for "town-clerk, or clerk of the commissioners, or trustees of police," and of "police district formed under section fifty-eight of the Police Act, 1857, special water supply district, special drainage district, special district formed under section forty-four of the Local Government (Scotland) Act, 1894, and any part of a parish for which a landward committee is constituted in terms of the said Act," for "burghs, towns, and populous places."

. . . .

Act 1895.

LANDS VALUATION (SCOTLAND) AMENDMENT ACT, 1895.

(58 & 59 Vict. c. 41.)

An Act to amend the Valuation of Lands (Scotland) Acts.
[6th July, 1895.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title and extent of Act.

1. This Act may be cited as the Lands Valuation (Scotland) Amendment Act, 1895, and shall apply to Scotland only.

Construction of Act.

2. This Act shall be read and construed as one with the Valuation Acts.

Interpretation. 17 & 18 Vict. c. 91.

3. In this Act the expression "Valuation Acts" shall mean and include the Lands Valuation (Scotland) Act, 1854 (hereinafter referred to as the Valuation Act, 1854), and any Acts amending the same.

Amendment of sec. 6 of Valuation Act, 1854, in cases of erections and structural improvements.

4. Section six of the Valuation Act, 1854, shall be read and construed as if the following proviso were inserted after the words "as compared with the amount of such valuation," that is to say:

"Provided also, that where any lessee of any such lands and heritages, holding under a lease or agreement, the stipulated duration of which is twenty-one years or under from the date of the entry under the same, and in the case of minerals, thirty-one years or under from the date of such entry, has made or acquired erections or structural improvements on the subjects let, and where the actual yearly value of such erections or structural improvements cannot, under the provision of section six of this Act, be entered in the valuation roll, such erections or structural improvements shall be deemed to be lands and heritages within the meaning of this Act, and such lessee shall be deemed to be proprietor thereof for the purposes of this Act, and the assessor shall ascertain the yearly value of such erections or structural improvements as a separate subject, by taking the amount of rent, if any, in addition to the rent stipulated to be paid under such lease or agreement at which, one year with another, the subjects let, and such erections or structural improvements might together, in their actual state, be reasonably expected to let from year to year, in consequence of such erections or structural improvements having been made, and shall make a separate entry thereof in the valuation roll, setting forth all the particulars relating thereto as hereinbefore provided with respect to other lands and heritages."

But this proviso shall not apply—

(1) To any erections or structural improvements made or acquired for agricultural purposes by the lessee of subjects wholly or mainly agricultural; nor

(2) To any erections or structural improvements made or acquired, and used exclusively for the purpose of work-

Act 1895.

ing or cleaning minerals let under such lease or agreement as aforesaid, in respect of which minerals rent or lordship is stipulated to be paid; nor

(3) To coke ovens or other structures in which coal or other minerals are treated, where the rent or lordship stipulated in such lease or agreement as aforesaid to be paid in respect of such coal or other minerals is, by the terms of such lease or agreement, calculated upon the coke or other minerals as treated in such ovens or other structures.

Burgh valuation committee to be appointed.

5. From and after the commencement of this Act, appeals and complaints, under the Valuation Acts, to the magistrates and council in any burgh may be heard and determined in the same manner as prior to the commencement of this Act, by such magistrates and councillors of such burgh, or may be heard and determined by a standing committee of their own number to be annually appointed by such magistrates and council, consisting of not less than seven nor more than fifteen members, of whom three shall be a quorum, and to be called the burgh valuation committee. The burgh valuation committee may appoint a chairman, who shall have a casting as well as a deliberative vote. Any vacancy on the committee caused by death, resignation, or other cause may be filled up by the magistrates and council. The town-clerk shall be clerk of the committee. The determination of a burgh valuation committee shall, for all purposes, be deemed to be the determination of the magistrates and council by whom it is appointed.

FACTORY AND WORKSHOP ACT, 1901.

Act 1901.

(1 Edw. VII. c. 22.)

. . . .

Part X.

Supplementary.

(i) *Application and Definitions.*

Factories and workshops to which Act applies.

149.—(1) Subject to the provisions of this section the following expressions have in this Act the meanings hereby assigned to them; that is to say:—

The expression "textile factory" means any premises wherein or within the close or curtilage of which steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing or in any process incident to the manufacture of cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoa-nut fibre or other like material, either separately or mixed together or mixed with any other material, or any fabric made thereof:

Act 1901.

Provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works and hat works shall not be deemed to be textile factories.

The expression "non-textile factory" means—

(*a*) any works, warehouses, furnaces, mills, foundries or places named in Part One of the Sixth Schedule to this Act; and

(*b*) any premises or places named in Part Two of the said schedule wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process carried on there; and

(*c*) any premises wherein or within the close or curtilage or precincts of which any manual labour is exercised by way of trade or for purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or of part of any article; or

(ii) the altering, repairing, ornamenting or finishing of any article; or

(iii) the adapting for sale of any article, and wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process carried on there.

The expression "factory" means textile factory and non-textile factory or either of those descriptions of factories.

The expression "tenement factory" means a factory where mechanical power is supplied to different parts of the same building occupied by different persons for the purpose of any manufacturing process or handicraft, in such manner that those parts constitute in law separate factories; and, for the purpose of the provisions of this Act with respect to tenement factories, all buildings situate within the same close or curtilage shall be treated as one building.

The expression "workshop" means—

(*a*) any premises or places named in Part Two of the Sixth Schedule to this Act which are not a factory; and

(*b*) any premises, room or place, not being a factory, in which premises, room or place or within the close or curtilage or precincts of which premises any manual labour is exercised by way of trade or for purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or of part of any article; or

(ii) the altering, repairing, ornamenting or finishing of any article; or

(iii) the adapting for sale of any article, and to or over which premises, room or place the employer of the persons working therein has the right of access or control.

The expression "workshop" includes a tenement workshop.

The expression "tenement workshop" means any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a workshop if the persons working therein were in the employment of the owner or occupier.

(2) A part of a factory or workshop may, with the approval in writing of the chief inspector, be taken for the purposes of this Act to be a separate factory or workshop.

(3) A room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act.

(4) Where a place situate within the close, curtilage or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory or workshop, that place shall not be deemed to form part of the factory or workshop for the purposes of this Act, but shall, if otherwise it would be a factory or workshop, be deemed to be a separate factory or workshop and be regulated accordingly.

(5) A place or premises shall not be excluded from the definition of a factory or workshop by reason only that the place or premises is or are in the open air.

(6) The exercise by any young person or child in any recognised efficient school, during a portion of the school hours, of any manual labour for the purpose of instructing the young person or child in any art or handicraft, shall not be deemed to be an exercise of manual labour for the purpose of gain within the meaning of this Act.

Application to Crown factories and workshops.

150.—(1) This Act applies to factories and workshops belonging to the Crown; but in case of any public emergency the Secretary of State may, by order, to the extent and during the period named by him, exempt from this Act any factory or workshop belonging to the Crown or any factory or workshop in respect of work which is being done on behalf of the Crown under a contract specified in the order.

(2) A factory or workshop belonging to or in the occupation of the Crown shall not be excluded from the operation of this Act by reason only that it is not carried on by way of trade or for the purpose of gain.

. . . .

Act 1901.

Sections 54, 149, 156.

SIXTH SCHEDULE.

LIST OF FACTORIES AND WORKSHOPS.

PART I.

NON-TEXTILE FACTORIES.

"Print works."

(1) "Print works," that is to say, any premises in which any persons are employed to print figures, patterns or designs upon any cotton, linen, woollen, worsted or silken yarn or upon any woven or felted fabric not being paper;

"Bleaching and dyeing works."

(2) "Bleaching and dyeing works," that is to say, any premises in which the processes of bleaching, beetling, dyeing, calendering, finishing, hooking, lapping and making up and packing any yarn or cloth of any material or the dressing or finishing of lace or any one or more of such processes or any process incidental thereto are or is carried on;

"Earthenware works."

(3) "Earthenware works," that is to say, any place in which persons work for hire in making or assisting in making, finishing or assisting in finishing earthenware or china of any description, except bricks and tiles not being ornamental tiles;

"Lucifer match works."

(4) "Lucifer-match works," that is to say, any place in which persons work for hire in making lucifer matches or in mixing the chemical materials for making them or in any process incidental to making lucifer matches, except the cutting of the wood;

"Percussion-cap works."

(5) "Percussion-cap works," that is to say, any place in which persons work for hire in making percussion caps or in mixing or storing the chemical materials for making them or in any process incidental to making percussion caps;

"Cartridge works."

(6) "Cartridge works," that is to say, any place in which persons work for hire in making cartridges or in any process incidental to making cartridges, except the manufacture of the paper or other material that is used in making the cases of the cartridges;

"Paper-staining works."

(7) "Paper-staining works," that is to say, any place in which persons work for hire in printing a pattern in colours upon sheets of paper, either by blocks applied by hand or by rollers worked by steam, water or other mechanical power;

"Fustian-cutting works."

(8) "Fustian-cutting works," that is to say, any place in which persons work for hire in fustian cutting;

"Blast furnaces."

(9) "Blast furnaces," that is to say, any blast furnace or other furnace or premises in or on which the process of smelting or otherwise obtaining any metal from the ores is carried on;

"Copper mills."

(10) "Copper mills";

"Iron mills."

(11) "Iron mills," that is to say, any mill, forge or other premises in or on which any process is carried on for converting iron into malleable iron, steel or tin plate or for otherwise making or converting steel;

(12) "Foundries," that is to say, iron foundries, copper foundries, brass foundries and other premises or places in which the process of founding or casting any metal is carried on; except any premises or places in which such process is carried on by not more than five persons and as subsidiary to the repair or completion of some other work; "Foundries."

(13) "Metal and india-rubber works," that is to say, any premises in which steam, water or other mechanical power is used for moving machinery employed in the manufacture of machinery or in the manufacture of any article of metal not being machinery or in the manufacture of india-rubber or gutta-percha or of articles made wholly or partially of india-rubber or gutta-percha; "Metal and india-rubber works."

(14) "Paper mills," that is to say, any premises in which the manufacture of paper is carried on; "Paper mills."

(15) "Glass works," that is to say, any premises in which the manufacture of glass is carried on; "Glass works."

(16) "Tobacco factories," that is to say, any premises in which the manufacture of tobacco is carried on; "Tobacco factories."

(17) "Letter-press printing works," that is to say, any premises in which the process of letter-press printing is carried on; "Letter-press printing works."

(18) "Bookbinding works," that is to say, any premises in which the process of bookbinding is carried on; "Bookbinding works."

(19) "Flax scutch mills"; "Flax scutch mills."

(20) "Electrical stations," that is to say, any premises or that part of any premises in which electrical energy is generated or transformed for the purpose of supply by way of trade or for the lighting of any street, public place or public building or of any hotel or of any railway, mine or other industrial undertaking. "Electrical stations."

PART II.

NON-TEXTILE FACTORIES AND WORKSHOPS.

(21) "Hat works," that is to say, any premises in which the manufacture of hats or any process incidental to their manufacture is carried on; "Hat works."

(22) "Rope works," that is to say, any premises being a ropery, ropewalk or rope work in which is carried on the laying or twisting or other process of preparing or finishing the lines, twines, cords or ropes and in which machinery moved by steam, water or other mechanical power is not used for drawing or spinning the fibres of flax, hemp, jute or tow and which has no internal communication with any buildings or premises joining or forming part of a textile factory, except such communication as is necessary for the transmission of power; "Rope works."

(23) "Bakehouses," that is to say, any places in which are baked bread, biscuits or confectionery from the baking or selling of which a profit is derived; "Bakehouses."

Act 1901.

"Lace warehouses."

(24) "Lace warehouses," that is to say, any premises room or place not included in bleaching and dyeing works as hereinbefore defined, in which persons are employed upon any manufacturing process or handicraft in relation to lace, subsequent to the making of lace upon a lace machine moved by steam, water or other mechanical power;

"Shipbuilding yards."

(25) "Shipbuilding yards," that is to say, any premises in which any ships, boats or vessels used in navigation are made, finished or repaired;

"Quarries."

(26) "Quarries," that is to say, any place, not being a mine, in which persons work in getting slate, stone, coprolites or other minerals;

"Pit-banks."

50 & 51 Vict. c. 58.

35 & 36 Vict. c. 77.

(27) "Pit-banks," that is to say, any place above ground adjacent to a shaft of a mine, in which place the employment of women is not regulated by the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Act, 1872, whether such place does or does not form part of the mine within the meaning of those Acts.

(28) Dry cleaning, carpet beating and bottle-washing works.

(29) Laundries carried on by way of trade or for the purpose of gain, or carried on as ancillary to another business or incidentally to the purposes of any public institution.[1]

Act 1902.

LANDS VALUATION (SCOTLAND) AMENDMENT ACT, 1902.

(2 Edw. VII. c. 25.)

An Act to amend the Lands Valuation (Scotland) Acts in regard to the law relating to the rating of machinery.

[8th August, 1902.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Provision as to what is "machinery fixed or attached."

1. Section forty-two of the Valuation Act, 1854, shall be read and construed as if the following proviso were inserted after the words "and all machinery fixed or attached to any lands or heritages," that is to say: Provided that in any building occupied for any trade, business, or manufacturing process the expression "machinery fixed or attached" shall be construed as including all machinery, machines, or plant in or on the lands or heritages for producing or transmitting first motive power, or for heating or lighting such building, but save as herein provided shall not include machines, tools, or appliances which are only so fixed that they can be removed from their place without necessitating the removal of any part of the building.

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[1] Added by Factory and Workshop Act, 1907 (7 Edw. VII. c. 39), sec. 1.

Act 1902.

Construction, short title, and extent. 17 & 18 Vict. c. 91.

2. This Act shall be read and construed as one with the Lands Valuation (Scotland) Act, 1854, and any Act amending the same, and may be cited separately as the Lands Valuation (Scotland) Amendment Act, 1902, and shall apply to Scotland only.

BURGH POLICE (SCOTLAND) ACT, 1903.

Act 1903.

(3 Edw. VII. c. 33.)

An Act to amend the law relating to the administration of burghs in Scotland. [14th August, 1903.]

Whereas it is expedient to amend the law relating to the administration of burghs in Scotland:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

1. This Act may be cited as the Burgh Police (Scotland) Act, 1903. Short title.

2. This Act shall apply to Scotland only. Application.

. . . .

Part II.—(Adoptive.)

Supplementary valuation roll. 17 & 18 Vict. c. 91.

60. The county council and magistrates of burghs respectively acting under the Lands Valuation (Scotland) Act, 1854, in addition to the ordinary valuation roll made up under the said Act as at fifteenth August in each year, shall between the first day of January and the first day of March in each year, if the town council so resolve before the said first day of January, cause to be made up by the assessor under the said Act a supplementary valuation roll, showing the yearly rent or value and other particulars as in the ordinary valuation roll of all lands and heritages that may have come into existence or occupancy within any burgh after the completion of the ordinary valuation roll last made up, and also including a column stating the respective dates when such lands and heritages came into existence or occupancy, but excluding any column such as mentioned in section nine of the Representation of the People Act, 1884, and all statutory provisions applicable to the principal valuation roll shall *mutatis mutandis* be applicable to the said supplementary roll, and the town council shall be entitled to impose supplementary assessments in respect of all lands and heritages in such supplementary roll, proportionate to the respective periods between the dates so stated and the term of Whitsunday next following, for all purposes for which the town council may be entitled to assess, which supplementary

48 & 49 Vict. c. 3.

Act 1903.

assessments shall be made, so far as possible, in the same manner, under the same conditions, and with the same powers of recovery, as are applicable to the corresponding assessments for the whole year. All expenses incurred by a county council in giving effect to the provisions of this section in any burgh shall be requisitioned for and paid in terms of section sixty-six of the Local Government (Scotland) Act, 1889.

52 & 53 Vict. c. 50.

. . . .

Act 1908.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1908.

(8 Edw. VII. c. 62.)

An Act to amend the law relating to county government, and to roads and bridges and the use of locomotives thereon, in Scotland. [21st December, 1908.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

52 & 53 Vict. c. 50.

57 & 58 Vict. c. 58.

58 Vict. c. 1.

1. This Act may be cited as the Local Government (Scotland) Act, 1908, and this Act and the Local Government (Scotland) Act, 1889 (hereinafter called the principal Act), the Local Government (Scotland) Act, 1894, and the Local Government (Scotland) Act, 1894, Amendment Act, 1895, may be cited together as the Local Government (Scotland) Acts, 1889 to 1908.

Extent of Act.

2. This Act shall extend to Scotland only.

. . . .

Readjustment of valuation boundaries.

6.—(1) The words "or the limits within which the valuation roll for a county or burgh is made up as at the passing of this Act, or the right of assessing for the cost of making up such valuation roll or the register of parliamentary voters for any county or division or burgh," occurring in section ninety-five of the principal Act are hereby repealed.

(2) Where the effect of an order of the Boundary Commissioners for Scotland appointed under the principal Act, or of any Act to confirm an order of the said Commissioners, or of an order of the Secretary for Scotland under section fifty-one of the principal Act, is to transfer part of a county to another county, the lands and heritages so transferred shall, in the year beginning the fifteenth day of May next after the passing of this Act and in subsequent years, be omitted from the valuation roll of the county from which they are transferred, and shall for all the purposes of the Valuation Acts, and for all assessments (including the county registration assessment), be deemed to be within the county to which they are transferred, provided that

so long as it is necessary that the lands and heritages so transferred from one county (herein referred to as the first-named county) to another county (herein referred to as the latter county) shall remain within the first-named county for the purposes of the Acts in force for the time being relating to the registration of parliamentary voters :—

(a) The assessor of the latter county shall, with a view to the registration of parliamentary voters within the area transferred, give to the assessor of the first-named county a list of the qualified voters within such area, and, if necessary, access to and use within the office of the assessor of the latter county of all books and schedules necessary to enable him to complete his list of county voters, and shall from time to time, not later than the tenth day of September in each year, transmit to the assessor of the first-named county a certified copy of so much of the valuation roll of the latter county as relates to the lands and heritages transferred; and

(b) The county council of the latter county shall, in respect of the local financial year beginning the fifteenth day of May next after the passing of this Act, and annually thereafter, pay to the county council of the first-named county such proportion of the expenses payable by the county council of the first-named county for the registration of parliamentary voters within the parliamentary division in which the area transferred is situated as the number of such voters registered yearly in the area transferred shall bear to the total number of parliamentary voters registered yearly in such parliamentary division, and such payment shall be added to the expense of making up the parliamentary register of the latter county, and shall be defrayed and provided for as if it were part thereof.

(3) Where the boundaries for police purposes of a parliamentary burgh differ from the boundaries thereof for parliamentary purposes, the boundaries for the time being of the said parliamentary burgh for police purposes shall, from and after the fifteenth day of May next after the passing of this Act, be also the boundaries thereof under and for the purposes of the Valuation Acts; and, with respect to any area affected by this enactment, paragraphs (a) and (b) of the immediately preceding subsection shall apply with the necessary substitutions. If any question shall arise as to the application of this sub-section in the case of any parliamentary burgh, such question shall be referred to the Secretary for Scotland, whose determination shall be final: Provided that, for the purposes of this sub-section, the police burgh of Maxwelltown shall be held not to form part of the parliamentary burgh of Dumfries.

(4) The provisions of this section shall not affect any proceedings taken in pursuance of any valuation roll made up in terms of the Valuation Acts for the year ending the fifteenth day of May next after the passing of this Act.

Act 1908.

Provisions as to Valuation Appeal Courts. 17 & 18 Vict. c. 91. 30 & 31 Vict. c. 80. 42 & 43 Vict. c. 42.

7.—(1) Section eight of the Lands Valuation (Scotland) Act, 1854, shall be amended by the substitution of the word "nineteenth" for the word "fifteenth" occurring therein.

(2) Section eight of the Valuation of Lands (Scotland) Amendment Act, 1867, and section seven of the Valuation of Lands (Scotland) Amendment Act, 1879, shall be read and construed as if such sections respectively provided for the nomination of three instead of two judges in the Court of Session.

. . . .

Repeal.

31. The Acts specified in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule, and so much of any Act as is inconsistent with this Act is also hereby repealed.

SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
17 & 18 Vict. c. 91.	Lands Valuation (Scotland) Act, 1854.	Section 36, from the beginning to the words "such county."
52 & 53 Vict. c. 50.	Local Government (Scotland) Act, 1889.	Section 95, from the words "or the limit within which" to the end of the section.

Act 1911.

HOUSE LETTING AND RATING (SCOTLAND) ACT, 1911.[1]

(1 & 2 Geo. V. c. 53.)

An Act to amend the law as to the letting and rating of small dwelling-houses in Scotland; and for other purposes relating thereto. [16th December, 1911.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Interpretation.

1. In this Act—

The expression "small dwelling-house" means a dwelling-house in a burgh or special district in which this Act is in operation, entered in the valuation roll at a yearly rent or value of—

Ten pounds or under if the population of the burgh or special district is less than twenty thousand;

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[1] See Rating (Scotland) Act, 1926 (16 & 17 Geo. V. c. 47), secs. 16 and 17.

Fifteen pounds or under if the population of the burgh or special district is twenty thousand and less than fifty thousand; and

Twenty-one pounds or under if the population of the burgh or special district is fifty thousand or upwards;

but shall not include any dwelling-house occupied by the owner thereof, or in which the owner resides, or any dwelling-house used as an inn or hotel, or any dwelling-house let along with land for agricultural, pastoral, or horticultural purposes, or any dwelling-house let in conjunction with a shop, workshop, stable, or byre; nor shall it include any dwelling-house let under any contract or lease current at the passing of this Act prior to the expiration of such contract or lease:

The expression "assessing authority" includes a town council, a county council, a parish council, and every other body entitled to impose an assessment:

The expression "assessment" includes all rates, charges, and assessments imposed, assessed, or levied by an assessing authority, the proceeds of which are applicable to public local purposes and which are leviable in respect of the yearly value of lands and heritages, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of an assessment:

The expression "magistrate" includes judge of police:

The expressions "owner" and "occupier" have the meanings assigned to them respectively in the Burgh Police (Scotland) Act, 1892: Provided that section fifty-eight of the Burgh Police (Scotland) Act, 1903 (which limits the obligations of factors), shall apply for the purposes of this Act as if it were herein re-enacted with the substitution of this Act for the Burgh Police Acts specified in the said section:

55 & 56 Vict. c. 55.

3 Edw. VII. c. 33.

The expression "burgh" means a royal, parliamentary, or police burgh; and the expression "population" means, in relation to an existing burgh, the population within the police boundaries thereof according to the census of nineteen hundred and eleven, and, in relation to a burgh constituted after the passing of this Act or to a special district, the population thereof as ascertained for the purposes of this Act in manner approved by the Secretary for Scotland:

The expression "special district" means a special district formed in a county under the Public Health (Scotland) Act, 1897, or the Local Government (Scotland) Acts, 1889 to 1908, for the purposes of water supply, drainage, lighting, or scavenging.

60 & 61 Vict. c. 38.

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Act 1911.

Provisions as to rating of small dwelling-houses.

7. Subject as hereinafter provided, the provisions of all Acts applicable within the respective areas in which this Act may be in operation respecting the liability for, and the imposition and recovery by an assessing authority of, any assessment, shall subsist in full force and effect: Provided that within every such area—

(1) The occupier of a small dwelling-house shall, in no case, be liable to pay occupiers' assessment therefor in respect of any period prior to the commencement or subsequent to the termination of his occupancy, but any liability to pay occupiers' assessment, which would by law be imposed on a person occupying the small dwelling-house throughout the year from Whitsunday to Whitsunday, shall be imposed on any such occupier or successive occupiers during the year, whether their names appear in the valuation roll or not, to such extent or in such shares as shall be proportionate to the period or periods of their respective occupancies of the small dwelling-house:

(2) Subject as hereinafter provided, the owner of a small dwelling-house shall be responsible for all assessments liability to pay which is imposed on the occupier thereof, and the same shall not be recovered or recoverable by the assessing authority from the occupier, but shall be recovered by the assessing authority from such owner in the same manner as provided for under existing Acts with respect to the recovery of assessments from owners, and the assessing authority shall be entitled to recover occupiers' assessments from the owner for the year from Whitsunday to Whitsunday, notwithstanding that the house may not be occupied throughout the year, and for that purpose to issue to the owner through their collector or other officer appointed by them any notice, schedule, demand note. or intimation which, under existing Acts, may be issued in respect of the year's assessments to the occupier:

(3)[2] . . . .

(4) The owner of a small dwelling-house, on receipt of a requisition from an assessing authority or such officer as they may appoint, shall, within ten days thereafter, furnish such authority with a return containing particulars of any period or periods in any year from Whitsunday to Whitsunday during which such small dwelling-house has been let, and of the occupier or successive occupiers thereof with their respective periods of occupancy and the amount of rent payable and paid by them respectively:

(5) Any owner knowingly making or causing to be made any false statement in or in connection with any

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[2] See new sub-sec. (3), Rating (Scotland) Act, 1926 (16 & 17 Geo. V. c. 47), sec. 26, *infra*, p. 203.

claim, declaration, or return under this section, or failing to make any such return, shall be liable, on summary conviction, to a penalty not exceeding fifty pounds:

(6) Every assessing authority shall, in respect of the occupancy of small dwelling-houses, allow to owners from all occupiers' assessments levied on and recovered from them in place of the occupiers (less any repayments in pursuance of a claim under this section) a deduction, to cover cost of collection, on the following scale (that is to say):

In the city of Glasgow, two pounds ten shillings per centum; and elsewhere such deduction, not exceeding two pounds ten shillings per centum, as may be fixed by the Sheriff on the application of the assessing authority, or any ten or more persons having an interest, after such intimation by advertisement or otherwise as he thinks fit, and after such inquiry, if any, as he may deem necessary:

Provided that, except in the city of Glasgow, after such scale of deduction has been in operation for a period of not less than three years, it shall be competent for the assessing authority, or for any ten or more persons having an interest, to present a petition to the Sheriff for reconsideration of such scale, and the Sheriff, after such intimation by advertisement or otherwise as he thinks fit, and after such inquiry, if any, as he may deem necessary, shall fix and decide a scale of deduction accordingly, but after the expiry of a period of not less than five years from the date of such decision, and thereafter at intervals of not less than five years from the date of the final interlocutor by the Sheriff on the reconsideration of such scale, the scale may, subject to the like procedure, be resubmitted to the Sheriff for reconsideration: Provided further that the Sheriff shall not fix a scale of deduction exceeding two pounds ten shillings per centum, and it shall not be competent to appeal from any decision of the Sheriff under this section:

(7) Section thirty-one of the Lands Valuation (Scotland) Act, 1854, sub-section (6) of section nine of the Representation of the People Act, 1884, and sections three hundred and forty-four, three hundred and forty-five, and three hundred and forty-six of the Burgh Police (Scotland) Act, 1892, and the provisions of local Acts specified in Part I. of the Schedule to this Act, shall not apply to a small dwelling-house, and the provisions of local Acts specified in Part II. of that Schedule in their application to a small dwelling-house shall be subject to the modifications therein prescribed, and any corresponding provisions of other local Acts shall be read and construed subject to the

17 & 18 Vict. c. 91.

48 & 49 Vict. c. 3.

55 & 56 Vict. c. 55.

like alterations so far as necessary in order to give full effect to the purposes of this Act, and in case of doubt arising in relation to any assessing authority, whether a town council or not, as to the effect of this enactment, sections forty-five and forty-six of the Burgh Police (Scotland) Act, 1892 (which relate to the issue of provisional orders to repeal or amend local Acts), shall apply, to the purpose and effect of enabling the Secretary for Scotland, whether on the application of the assessing authority or not, to issue a provisional order in order to resolve such doubt; but no such provisional order shall be of any validity unless the same has been confirmed by Act of Parliament:

(8) An assessor acting under the Lands Valuation (Scotland) Acts shall in estimating the yearly rent or value of a small dwelling-house make allowance for the responsibility by this section imposed on owners for the payment of occupiers' assessments.

. . . .

Application and adoption of Act.

11. Save as hereinafter mentioned, this Act shall apply from and after the fifteenth day of May, ninteen hundred and twelve, to all small dwelling-houses within the police boundaries of every royal, parliamentary, and police burgh and within every special district in Scotland: Provided that this Act shall not come into operation in any burgh having a population of less than ten thousand, or in any special district, until it has been adopted by a resolution of the town council of such burgh or county council of the county in which such special district is situated, as the case may be, at a meeting called for the purpose at any time after the passing of this Act, after one month's previous notice in a newspaper published or circulating in the burgh or special district.

Such resolution shall be published in the *Edinburgh Gazette*, and shall come into force as from the fifteenth day of May immediately following such publication.

Every resolution of a town council or county council in terms of this Act shall be forthwith intimated to the Secretary for Scotland.

Agreements in contravention of Act to be void.

12. Any agreement in contravention of the provisions of this Act shall be, and is hereby declared to be, null and void.

. . . .

Extent and citation.

14. This Act shall extend to Scotland only, and may be cited as the House Letting and Rating (Scotland) Act, 1911.

Act 1926.

RATING (SCOTLAND) ACT, 1926.

(16 & 17 Geo. V. c. 47.)

An Act to amend the law with respect to rating in Scotland, and for purposes incidental thereto or connected therewith.
[15th December, 1926.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Town and county councils to be rating authorities for parish and education rates.

1. The parish rates and the education rate shall cease to be levied, collected, and recovered by parish councils, and, subject to and in accordance with the provisions of this Act, shall be levied, collected, and recovered by the town council of the burgh and the county council of the county, as the case may be, and the town council and the county council shall be the rating authorities for the burgh and for the county respectively for the purposes of the parish rates and the education rate, but nothing in this Act shall affect the right of a parish council to recover rates levied by the council before the commencement of this Act.

. . . .

2.—(4) The exemption from payment of the rate for the relief of the poor and of any other rate leviable by reference to the persons liable for that rate possessed and enjoyed by ministers in respect of their manses and glebes shall cease.

Basis of levying poor and certain other rates.

8 & 9 Vict. c. 83.

3.—(1) The rate for the relief of the poor and all other rates leviable in like manner as that rate, whether leviable by parish councils or by any other authority, shall cease to be levied or recovered in accordance with the provisions of the Poor Law (Scotland) Act, 1845, and shall, subject to the provisions of this Act, be levied and recovered by the rating authority in like manner at the same time and under the like powers and provisions (including without prejudice to the said generality the power to grant remission or relief on the ground of poverty or inability to pay and the provision relating to appeals) as, but as separate rates from, the public health general assessment, but the limit, if any, applicable to that assessment shall not apply.

(2) Where under the provisions of any local Act the public health general assessment is not exigible in respect of any lands and heritages, then, notwithstanding anything in this section or in section five of this Act, the rates to which those sections apply shall nevertheless be levied and recovered in respect of such lands and heritages in the same way and to the same effect as if the public health general assessment had been exigible in respect thereof.

. . . .

Act 1926.

Abolition of exemption from local rates in certain cases.

37 & 38 Vict. c. 20.

11. Section one of the Rating Exemptions (Scotland) Act, 1874 (which contains provisions whereby churches and certain other lands and heritages are not liable to local rates), shall cease to have effect—

(a) as regards local rates payable by owners in the case of any church, chapel, meeting house, or premises exclusively appropriated to public religious worship in respect of which the owner receives rent therefor and does not himself occupy such church, chapel, meeting house, or premises; and

(b) as regards local rates payable by both owners and occupiers in the case of ground exclusively appropriated as burial ground where such ground belongs to a local authority or to a company or persons selling the exclusive right of burial in lairs therein, or trading as cemetery owners for profit;

55 & 56 Vict. c. 55.

and section three hundred and seventy-three of the Burgh Police (Scotland) Act, 1892 (relating to exemptions and savings), shall have effect as if the provisions of this section had been in operation at the commencement of that Act.

Rateable values of lands and heritages.

3 Edw. VII. c. 33.

12.—(1) Subject to the provisions of sub-section (2) of this section, and also subject to the provisions of sub-section (7) of this section or of section forty-five of the Burgh Police (Scotland) Act, 1903, or the corresponding provisions of any local Act, the annual value of the lands and heritages set out in the first column of the First Schedule to this Act shall, for the purposes of all rates leviable under any public general Act except as otherwise specified in the said Schedule, be held to be the gross annual value of the lands and heritages, after the deduction of an amount representing the percentage set out in the second column of the said Schedule opposite to the lands and heritages to which it relates, and the provisions of any public general Act so far as inconsistent with the provisions of this sub-section shall cease to have effect, but nothing herein contained shall be deemed to affect the provisions of section two hundred and thirty-three of the Burgh Police (Scotland) Act, 1892.

(2) The provisions of the foregoing sub-section shall apply for the purposes of all rates (other than water rates) leviable under any local Act, and of all rates leviable under any public general Act with respect to which special provisions are made in any local Act, together with the provisions of the local Act subject to such modifications and adaptations of such local Act as may be prescribed with respect to any such rate by order made by the Secretary of State on the application of the authority by whom such rate is leviable or of any person interested:

Provided that, in any case in which partial relief from any such rate is given by the local Act, the order shall secure that in such case the relief from the rate under the provisions of this section and of the local Act modified and adapted as aforesaid shall be as near as may be the same as that given by the local Act, and provided also that any relief from any such rate given by a local Act shall cease to the extent to which that relief corresponds to that given by section three hundred and forty-seven of the Burgh Police (Scotland) Act, 1892, or which would have been given by that section if it had applied to underground works of an electricity undertaking, and no account shall be taken of that relief to the said extent for the purposes of the said order.

(3) Save as provided in sub-sections (1) and (2) of this section the annual value of all lands and heritages for the purposes of all rates (other than water rates leviable under a local Act) shall be the gross annual value thereof, subject to the provisions of sub-section (7) of this section or of section forty-five of the Burgh Police (Scotland) Act, 1903, or the corresponding provisions of any local Act.

(4) The Secretary of State may, on the application of an authority having power to levy a water rate under a local Act, or of any person interested by order, direct that the provisions of sub-section (1) of this section shall apply for the purposes of such water rate together with the provisions of the local Act subject to such modifications and adaptations thereof as may be prescribed in the order, and such water rate shall be levied subject to the provisions of the order.

Provided that, in any case in which partial relief from such rate is given by such local Act, the order shall secure that in such case the relief from the rate shall be as near as may be the same as that given by the local Act, but no account shall be taken of that relief to the extent to which it corresponds to that given by section three hundred and forty-seven of the Burgh Police (Scotland) Act, 1892, or which would have been given by that section if it had applied to underground works of an electricity undertaking.

(5) Any authority or person making application for an order under this section shall give notice of such application once weekly for at least two successive weeks in a newspaper circulating in the district of the authority by whom the relative rate is leviable, and once in the *Edinburgh Gazette* on or before the date of the second notice in the said newspaper, and such notice shall contain an intimation that any person interested may lodge objections with respect to the proposed order with the Secretary of State within one month after the date of the first notice in the said newspaper. Where objections are so lodged with respect to any proposed order the authority or other person applying for the order and the authority or other person by whom the objections are lodged shall be entitled to make representation to the Secretary of State.

(6) Any order made under this section shall be laid before both Houses of Parliament forthwith, and if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such order is laid before it praying that the order may be annulled, it shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or the making of a new order.

(7) Save as otherwise provided in any local Act, if the amount of the annual value for the purposes of rates ascertained

Act 1926.

as aforesaid of any lands and heritages in a county includes a fraction of five shillings, the amount of the annual value shall be increased or reduced as the case may be to the nearest complete five shillings, or if the fraction is two shillings and sixpence the fraction shall be disregarded.

(8) The provisions of any Act under which a rate is to be charged in equal proportions to owners and occupiers or to be equally divided between owners and occupiers or to be leviable from owners and occupiers in equal proportions shall be deemed to be complied with in the case of agricultural lands and heritages if an equal rate per pound is levied upon owners and occupiers.

(9) Nothing in this section shall affect the total exemption from any rate of any lands and heritages.

. . . .

Provisions as to valuation roll.

14.—(1) Every valuation roll made up in accordance with the Lands Valuation (Scotland) Act, 1854, or section sixty of the Burgh Police (Scotland) Act, 1903, shall in addition to the other particulars required by the said Acts show [the net annual value and also][1] the rateable value of the lands and heritages *and the amount of any deduction from the gross annual value for the purpose of ascertaining the rateable value*,[2] and the provisions of the Lands Valuation (Scotland) Act, 1854 (including, without prejudice to the said generality, the provisions with respect to notices to persons whose property is valued and with respect to appeals), shall apply accordingly.

(2) Lands and heritages, the gross annual value of which is also the rateable value, shall not be included in the same entry in a valuation roll as lands and heritages from the gross annual value of which a deduction is made in ascertaining the rateable value, nor shall any lands and heritages be included in the same entry therein as other lands and heritages unless the same rate of deduction is made from the gross annual value in ascertaining the rateable value in the case of each of the lands and heritages in the entry.

(3) Where for the purposes of any rate leviable under or in accordance with any local Act an apportionment is required of the total gross annual value of lands and heritages entered in a valuation roll under a single entry, the assessor under the Lands Valuation (Scotland) Act, 1854, may, and on the application of the authority by whom the rate is leviable or of any person interested shall, apportion the sum entered in the valuation roll in respect of the said lands and heritages so far as necessary for the purpose of levying the rate aforesaid, and the authority or any person aggrieved by the apportionment may, within fourteen days after such apportionment has been intimated to him, appeal to the Sheriff, whose decision shall be final.

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[1] These words are added by sec. 49 (1), 1929 Act (19 & 20 Geo. V. c. 25).

[2] The words italicised are now omitted. See sec. 49 (1), 1929 Act (19 & 20 Geo. V. c. 25).

(4) Where for the purposes of this Act an amount required or the amount of a deficiency or the amount of expenses in respect of a year is to be allocated and apportioned between two or more rating authorities according to the rateable valuations or the gross annual valuations in the valuation roll of their respective areas so far as within the parish or the education area or other district, the valuation roll shall be the valuation roll for the preceding year with such adjustments on the basis of the roll for that year as may be necessary to take account of any alteration in boundaries of the area of any rating authority, to which effect has been or is being given in the valuation roll for the year current. The provisions of this sub-section shall also apply for the purpose of the apportionment of the expenses of district boards of control in the case of the first year after the commencement of this Act, and for the purpose of ascertaining the amount of the contribution by a royal, parliamentary or police burgh under the provisions of sub-section (4) of section sixty of the Local Government (Scotland) Act, 1889.

Provision as to certificates of valuation.

15. Where any amount or sum is required under this Act to be apportioned or allocated among two or more rating authorities according to the rateable valuation of the respective areas of such authorities, the clerk of the town or county council by whom the valuation roll relating to any part of such areas is made up shall, so soon as the same shall have been authenticated under the Lands Valuation (Scotland) Act, 1854, or section sixty of the Burgh Police (Scotland) Act, 1903, give a certificate of the rateable valuation of such part to the clerk of any council, authority, or board by whom such apportionment or allocation as aforesaid requires to be made.

Owners of certain subjects in counties may be charged with occupiers' rates.

16. Without prejudice to the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920, a county council or any other authority (not being the town council of a burgh) having statutory power to levy a rate may, if they think fit, levy upon the owners any occupiers' rate in respect of lands and heritages separately let for a shorter period than one year, but the county council or other authority shall allow to such owners a deduction from the occupiers' rates equal to two and one-half per centum thereof, and every such owner charged with and paying such occupiers' rates shall have relief against the occupiers of such lands and heritages for the full amount thereof without deduction corresponding to the period of occupancy and, so far as he fails to recover the amount payable by any such occupier, he shall be entitled to repayment from the county council or other authority upon lodging a claim on or before such date as may be fixed by the council or other authority, without prejudice to the right of the council or other authority to make adjustments with such owner in respect of any sum subsequently recovered by him in respect of such occupiers' rates.

Rates on lands and heritages not usually for less than

17. Without prejudice to the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920, when any lands and heritages in respect of which a rate might be imposed upon the occupier, not being lands and heritages usually let for any period

a year, but not occupied by same occupier for whole year.

shorter than one year, shall not be occupied by the same occupier for the whole year from the term of Whitsunday in any year till the term of Whitsunday in the year following, but shall be occupied for part of such year by a new occupier, the rating authority, or any other authority having statutory power to levy a rate, may, if they think fit, impose and levy on and from such new occupier who occupies the same for any part of such year, whether his name appears in the valuation roll or not, a proportion of such rate for that year corresponding to the period of his occupancy; and in the case of a burgh the rating or other authority may, if they think fit, impose and levy on and from the owner of such lands and heritages the proportion of such rate, if any, corresponding to the period during which such lands and heritages were occupied during the said year by any other occupier, and every such owner charged with and paying such occupiers' rates shall have relief against such other occupier corresponding to the period of occupancy, and so far as he fails to recover the amount payable by such other occupier he shall be entitled to repayment from the rating or other authority upon lodging a claim on or before such date as may be fixed by the rating or other authority, without prejudice to the right of the rating or other authority to make adjustments with such owner in respect of any sum subsequently recovered by him in respect of such occupiers' rates.

. . . .

Payment of rates by instalments.

19.—(1) Notwithstanding anything to the contrary in any Act, a rating authority or any other authority having statutory power to levy a rate may, on passing a resolution to that effect, levy, collect, or recover all or any of the said rates by instalments, not being more than four of such amounts, and to be paid on such dates as the rating or other authority shall fix and determine at the time of fixing or imposing such rates, and the demand note shall in addition to the other required particulars state the time appointed for the payment of each instalment, and all powers, rights, and remedies competent to the rating or other authority or to their officers for levying, collecting, or recovering a rate shall apply to each of the instalments of the rate as if it were a separate rate:

Provided that—

(a) any person may elect to pay in one sum instead of by instalments and any person failing to make payment of the first instalment on or before the date fixed therefor shall forfeit the right to pay by instalments; and

(b) nothing herein contained shall limit the powers of a rating authority under the provisions of any local Act with respect to levying, collecting, and recovering rates by instalments, and any such provisions of any local Act shall apply to the rates which, under this Act, are levied by the rating authority.

(2) The rating or other authority may at any time revoke or vary any resolution under this section.

Fractions of a penny of rates.

20. In calculating and collecting the amount payable by a ratepayer in respect of rates levied by a rating authority, any fractional part of a penny less than one halfpenny shall not be reckoned as part of the amount of such rates, and any fractional part of a penny amounting to or exceeding a halfpenny shall be reckoned in the amount of such rates as a penny.

Collection of rates levied by authorities other than rating authorities.

21. Any rating authority and any other authority having statutory power to levy a rate within the area of the rating authority may make arrangements on such terms and conditions as may be agreed for the collection by the rating authority of the rates levied by the other authority, and, where such arrangements are in force, the demand note issued by the rating authority in respect of rates levied by them may include as a separate item the rate levied by the other authority.

Demand notes for rates.

22.—(1) Every demand note for rates issued by a rating authority (other than any demand note which may be issued in respect only of a second or later instalment of rates) shall contain information with respect to the following matters, that is to say:

(a) the situation of the lands and heritages in respect of which the demand note is issued and such description thereof reasonably necessary for purposes of identification as may be prescribed;

(b) the gross annual value of the lands and heritages and the value thereof for the purposes of the rates in the demand note;

(c) where the rates are levied as consolidated rates the amount in the pound at which those rates are levied, and where the rates are not so levied the total amount in the pound of the rates in the demand note levied by the rating authority;

(d) the date on which the rates are payable;

(e) the period in respect of which the rates are levied;

(f) where the rates are levied as consolidated rates, the amount in the pound representing each of the separate rates in respect of which the consolidated rates are levied, and, where the rates are not so levied, the amount in the pound of each of the rates in the demand note levied by the rating authority—showing separately the rates relating to expenditure of the rating authority and those relating to expenditure of each authority by or on account of which a certificate has been issued to the rating authority; and

(g) the amounts in the pound which are being levied by the rating authority for such of the principal services administered respectively by the rating authorities and the authorities by or on account of which certificates have been issued to the rating authority as may be prescribed.

(2) The Secretary of State may by rules prescribe the forms of demand notes for rates and anything which by this section is to be prescribed.

Act 1926.

Amendment of sec. 62 of 52 & 53 Vict. c. 50.

23.—(1) The following sub-section shall be substituted for sub-section (4) of section sixty-two of the local Government (Scotland) Act, 1889 (which makes provision with respect to the levying of rates), that is to say:

> "(4) The county council may relieve in whole or in part any person from payment of any rate on the ground of poverty or inability to pay, but only on application by such person; but no lands or heritages shall be exempted from assessment on the ground that they are or have been during the period of assessment unoccupied and unfurnished except in respect of the amount payable by the occupier."

(2) Summary warrants for the recovery of rates by county councils shall, in addition and without prejudice to the other remedies competent thereunder, decern and ordain instant execution by arrestment, and sub-section (5) of section sixty-two of the Local Government (Scotland) Act, 1889, shall have effect accordingly.

Cost of levying and collecting rates.

24. The expenses incurred by a rating authority in levying, collecting, recovering, and, so far as necessary, paying over all rates levied and collected by them shall be defrayed—

(a) in the case of a town council out of the general improvement assessment or such other rate leviable by the council for the purposes of any Act of Parliament administered by them and payable by owners and occupiers in equal proportions as the council may determine, but shall not be reckoned in any calculation as to the statutory limit of that assessment or rate; and

(b) in the case of a county council out of the general purposes rate, but, notwithstanding anything in the Local Government (Scotland) Act, 1889, a police burgh shall not be liable to contribute towards any such expenses of a county council.

. . . .

25.—(2) Section sixty-six of the Local Government (Scotland) Act, 1889 (which relates to requisitions and payments of burgh contributions to county funds), whether for the purposes of that Act or of any other Act by which it is applied, shall have effect as if the fifteenth day of July were therein substituted for the month of October.

(3) The general meeting of a county council which is required by sub-section (2) of section seventy-three of the Local Government (Scotland) Act, 1889, to be held in the month of October, and at which, under section seventy-one of the said Act, the annual budget of the county council is required to be submitted may, if the county council so determine, by passing a resolution to that effect at a meeting of which due notice shall be given, be held on such day before the month of October as the county council may from time to time determine, and the provisions of the said subsection and of the said section seventy-one shall have effect accordingly.

. . . .

Act 1926.

(5) Section thirty-seven of the Local Government (Scotland) Act, 1894 (which relates to the local annual budget of parish councils), shall have effect as if the month of June were therein substituted for the month of July.

57 & 58 Vict. c. 58.

. . . .

Amendment of sec. 7 of 1 & 2 Geo. V. c. 53.

26. The following sub-section shall be substituted for sub-section (3) of section seven of the House Letting and Rating (Scotland) Act, 1911, as respects occupiers' rates paid for a period after the commencement of this Act:—

(3) Notwithstanding any payment by the owner of occupiers' assessments in respect of the occupancy of a small dwelling-house if for any period any small dwelling-house in respect of which such payment has been made was not let, or if in respect of any period the owner shall fail to recover the full amount of the rent or other consideration for any small dwelling-house in respect of which such payment has been made he shall, upon lodging, on or before dates to be fixed by the respective assessing authorities (one of which dates shall be fixed not earlier than the first or later than the twentieth day of May in each year), with the clerk to any such authority, or with such other officer as such authority may appoint for the purpose—

(a) a claim for repayment which shall set forth—

(i) the period or periods during which the small dwelling-house was not let; and

(ii) the period or periods in respect of which though the house was let payment of the full amount of the rent or other consideration was not recovered by the owner and the amount actually recovered by him on account of such rent or other consideration; and

(b) a declaration to the effect that the amount actually recovered on account of the rent or other consideration for such period or periods has fallen short of the full amount payable by a specified amount;

be entitled to repayment without any unnecessary delay from such authority of the proportionate amount of such assessments for the said period or periods during which the house was not let and of such part of the proportionate amount of such assessments for the said period or periods during which the house was let as corresponds to the unrecovered part of the total amount of rent or other consideration payable, without prejudice to the right of the authority to make adjustments with the owner in respect of any such rent or other consideration subsequently recovered by him.

. . . .

Temporary provision for protection of trustees of port and harbours of Greenock.

28. Until the fifteenth day of May, nineteen hundred and thirty-two, and notwithstanding anything in this Act contained, in the application of this Act to the port and harbours of Greenock the deduction of the percentage set out in the second column of the First Schedule to this Act shall be ten per centum

higher than the deduction applicable to the class of lands and heritages referred to in paragraph (8) of the said Schedule.

Interpretation.

29.—(1) In this Act, unless the context otherwise requires—

. . . .

the expressions "burgh" and "police burgh" have the respective meanings assigned to them in the Burgh Police (Scotland) Act, 1892;

the expression "county" means the county exclusive of any burgh;

the expression "education rate" means the rate leviable for the purposes of defraying the expenses of education authorities under the provisions of the Education (Scotland) Act, 1918, as amended by this Act;

the expression "gross annual value" in relation to lands and heritages means the yearly rent or value thereof as entered in the valuation roll in accordance with the provisions of the Lands Valuation (Scotland) Act, 1854, and the Acts (other than the section of this Act containing provisions as to the valuation roll) amending that Act, and the expression "gross annual valuation" shall be construed accordingly;

the expression "lunacy rate" means the rate levied under the Lunacy (Scotland) Act, 1857;

the expression "owner" in the case of a burgh has the meaning assigned to it in the Burgh Police (Scotland) Act, 1892, and in the case of a county has the meaning assigned to it in the Local Government (Scotland) Act, 1889;

the expression "parish council" includes a parish council acting as a district board of control;

the expression "parish rates" means the rate for the relief of the poor and all other rates which by any Act of Parliament are declared to be leviable by a parish council, excluding the education rate;

the expression "rate" includes any rate, charge, and assessment the proceeds of which are applicable to public local purposes and which is leviable on lands and heritages;

the expression "rateable value" means the annual value hereinafter specified, adjusted, if so required in the case of lands and heritages in a county in accordance with the provisions of sub-section (7) of section twelve of this Act, or the corresponding provisions of any local Act, and in the case of lands and heritages in a burgh in accordance with the provisions of section forty-five of the Burgh Police (Scotland) Act, 1903, or the corresponding provisions of any local Act—

(a) in the case of lands and heritages specified in the First Schedule to this Act the gross annual value after the deduction of an amount representing the percentage thereof set out in the second column of the said Schedule opposite to the lands and heritages to which it relates; and

(b) in the case of lands and heritages (other than lands and heritages to which paragraph (a) hereof applies) the gross annual value, except that in the case of lands and heritages with respect to which there is total exemption from all rates the rateable value shall be treated as nil.

and the expression "rateable valuation" shall be construed accordingly;

the expression "rating authority" means in the case of a county the county council, and in the case of a burgh the town council;

the expression "valuation roll" includes a supplementary valuation roll.

(2) Any reference in this Act to any statutory provision shall be construed as a reference to the statutory provision as amended or extended or applied by any subsequent Act, including this Act.

. . . .

Short title, commencement and extent.

31.—(1) This Act may be cited as the Rating (Scotland) Act, 1926.

(2) This Act shall come into operation on the sixteenth day of May, nineteen hundred and twenty-seven.

(3) This Act shall apply to Scotland only.

FIRST SCHEDULE.

Deductions from Gross Annual Value of certain Classes of Lands and Heritages for the purposes of Rates.

Class of Lands and Heritages.	*Rate of Deduction.*
1. Mines, minerals, and quarries, including any lands and heritages contiguous thereto used wholly or mainly for the purposes of the business of working the mines, minerals, and quarries.	Five per cent.
2. Mills, manufactories, works, or premises of a similar character used wholly or mainly for industrial purposes (other than those specified in paragraphs 3, 4, 5, and 11).	Six and one-quarter per cent.

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Class of Lands and Heritages.	*Rate of Deduction.*
3. Works used wholly or mainly for the conversion of ore into pig-iron and works in the occupation of the same person as the foresaid works and used in conjunction therewith, wholly or mainly, for the utilisation of by-products arising out of the manufacture of pig-iron.	Fifteen per cent.
4. Works used wholly or mainly for the manipulation of semi-finished steel or wrought-iron products into tubes.	Fifteen per cent.
5. Works used wholly or mainly for the extraction of crude oil from shale, and works used wholly or mainly for the refining of crude oil.	Fifteen per cent.
6. Lands and heritages forming part of the undertaking of any local authority, body, or company supplying gas or water for public purposes, or to members of the public and exclusively used in connection with such supply.	Twenty per cent.
7. Sewers, drains, or sewerage works belonging to a local authority as local authority for the purposes of drainage or to any other authority having statutory power to levy a drainage rate.	Twenty per cent.
8. Harbours, quays, wharves, docks, piers, ferries, or canals (other than those valued as part of a railway undertaking), and any lands and heritages used wholly or mainly for the purposes thereof.	Twenty per cent.
9. Lands and heritages belonging to or leased by a railway company and valued by the assessor of railways and canals as part of a railway undertaking.	Twenty-five per cent.
10. Lands and heritages belonging to or leased by a tramway company or local authority, and valued by the assessor of railways and canals as part of the tramway undertaking of such company or authority.	Twenty-seven and one-half per cent.

Class of Lands and Heritages.	*Rate of Deduction.*
11. Works used wholly or mainly for the manufacture of steel ingots or wrought iron in conjunction with processes incidental to the manufacture of steel or wrought-iron products, or for the manipulation of semi-finished steel or wrought-iron products into plates, sheets, sections, hoops, strips, or bars.	Thirty per cent.
12. Lands and heritages forming part of the undertaking of any local authority, body, or company supplying electricity for public purposes or to members of the public and exclusively used in connection with such supply.	Thirty per cent.
13.[1] Agricultural lands and heritages, for the purposes of the owner's share of rates.	Twenty-five per cent.
14.[1] Agricultural lands and heritages, for the purposes of the occupier's share of rates.	Seventy-five per cent.

RATING AND VALUATION (APPORTIONMENT) ACT, 1928.

Act 1928.

(18 & 19 Geo. V. c. 44.)

An Act to make provision, with a view to the grant of relief from rates in respect of certain classes of hereditaments, for the distinction in valuation lists of the classes of hereditaments to be effected, and the apportionment in valuation lists of the net annual values of such hereditaments according to the extent of the user thereof for various purposes.

[3rd August, 1928.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

. . . .

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[1] Paragraph 14 is now omitted under the 1929 Act (19 & 20 Geo. V. c. 25), sec. 44 (1), and paragraph 13 reads as follows: "Agricultural lands and heritages —Eighty-seven and one-half per cent."

Act 1928.

Provisions as to Industrial Hereditaments.

Definition of industrial hereditaments.

3.—(1) In this Act the expression " industrial hereditament "[2] means a hereditament (not being a freight transport hereditament) occupied and used as a mine or mineral railway or, subject as hereinafter provided, as a factory or workshop :

Provided that the expression industrial hereditament does not include a hereditament occupied and used as a factory or workshop[3] if it is primarily occupied and used for the following purposes or for any combination of such purposes, that is to say :

(a) the purposes of a dwelling-house;
(b) the purposes of a retail shop ;[4]
(c) the purposes of distributive wholesale business;
(d) purposes of storage;
(e) the purposes of a public supply undertaking;
(f) any other purposes, whether or not similar to any of the foregoing, which are not those of a factory or workshop.

(2) For the purposes of this Act any place used by the occupier for the housing or maintenance of his road vehicles or as stables shall, notwithstanding that it is situate within the close, curtilage, or precincts forming a factory or workshop and used in connection therewith, be deemed not to form part of the factory or workshop, but, save as aforesaid, the expressions " factory " and " workshop " have respectively the same meanings as in the Factory and Workshop Acts, 1901 to 1920.[5]

(3) Where two or more properties within the same curtilage, or contiguous to one another, are in the same occupation and, though treated as two or more hereditaments for the purposes of rating and valuation by reason of being situate in different parishes or of having been valued at different times or for any other reason, are used as parts of a single mine, mineral railway, factory, or workshop, then, for the purposes of determining whether the several hereditaments are industrial hereditaments, they shall be treated as if they formed parts of a single hereditament comprising all such hereditaments.

(4) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:

1 & 2 Geo. V. c. 50.
35 & 36 Vict. c. 77.
10 & 11 Geo. V. c. 50.

" Mine " has the meaning assigned to it by section one hundred and twenty-two of the Coal Mines Act, 1911, or section forty-one of the Metalliferous Mines Regulation Act, 1872, as amended by sub-section (2) of section nineteen of the Mining Industry Act, 1920, as the case may require, but also includes any premises, place, or works, whether below ground or above ground, primarily occupied and used for the purpose of draining or otherwise protecting from damage any mine or group of mines or occupied and used for pumping or raising brine for the purpose of manufacture or sale from shafts, wells, springs, or mines:

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[2] See sec. 9 (2): for Scotland "lands and heritages" are substituted for "hereditament."

[3] See Local Government (Scotland) Act, 1929 (19 & 20 Geo. V. c. 25), sec. 46 (1).

[4] See sub-sec. (4), *infra*, for a definition of "retail shop."

[5] The definition clauses of the Factory and Workshop Act, 1901, are set out, *supra*, p. 181.

" Mineral railway " means a railway, tramway, or ropeway used primarily for the transport of minerals gotten from a mine, or from two or more mines, to a freight transport hereditament or between any two such hereditaments or to any dock not being a freight transport hereditament and in the latter case includes also such dock:

" Public supply undertaking " means any undertaking primarily carried on for the supply of gas, water, electricity or hydraulic power for public purposes, or to members of the public, or to any one or more undertakings carried on under any special Act or Order having the force of an Act:

" Retail shop " includes any premises of a similar character where retail trade or business (including repair work) is carried on.

. . . .

4.—(2) For the purpose of determining in what proportions an industrial hereditament is occupied and used for industrial purposes and for other purposes respectively, the following provisions shall have effect:—

(a) The hereditament shall be deemed to be occupied and used for industrial purposes except in so far as any part thereof is, under this Act or under the enactments relating to the regulation of mines, factories, and workshops, to be deemed neither to be, nor to form part of, a mine, factory, or workshop:

(b) Where the net annual value of a hereditament does not exceed fifty pounds, or where the part of the net annual value of a hereditament attributable to purposes other than industrial purposes does not exceed ten per cent. of the part thereof attributable to industrial purposes, the hereditament shall be treated as if it were occupied and used wholly for industrial purposes; and where the part of the net annual value attributable to such other purposes exceeds ten per cent. of the part thereof attributable to industrial purposes, the part attributable to such other purposes shall not be treated as being attributable to those other purposes except in so far as it exceeds ten per cent. of the part attributable to industrial purposes:

(c) Where two or more hereditaments in the same occupation are, by virtue of the provisions of sub-section (3) of the last foregoing section, treated as if they formed parts of a single hereditament, each of the several hereditaments shall be deemed to be occupied and used for industrial purposes and for other purposes respectively in the proportion in which, if all the heredita-

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ments formed a single hereditament, that single hereditament would be deemed to be so occupied and used.

Provisions as to Freight Transport Hereditaments.

Definition of freight transport hereditaments.

5.—(1) In this Act the expression " Freight transport hereditament "[6] means all or any of the following hereditaments :—

(a) A hereditament occupied and used wholly or partly for railway transport purposes as part of—

(i) a railway company, for which a schedule of standard charges has been settled under the Railways Act, 1921, or to which such a schedule is for the time being applied under section thirty-three of that Act, being an undertaking whereof the railway is used for the conveyance of merchandise otherwise than by passenger train or carriage; and

11 & 12 Geo. V. c. 55.

(ii) a light railway undertaking carried on by a light railway company, being an undertaking whereof the light railway is used as a public railway for the conveyance of merchandise otherwise than by passenger train or carriage :

(b) A hereditament occupied and used wholly or partly for canal transport purposes as part of a canal undertaking whereof the canal is used for the conveyance of merchandise :

(c) A hereditament occupied and used wholly or partly for dock purposes as part of a dock undertaking being an undertaking whereof a substantial proportion of the volume of business is concerned with the shipping and unshipping of merchandise not belonging to or intended for the use of the undertakers [or with the provision of accommodation for fishing vessels].[7]

Provided that a hereditament primarily occupied and used as offices for, or for purposes ancillary to, the general direction and management of a railway, canal, or dock undertaking, shall not be deemed a freight transport hereditament.

(2) In this Act the following expressions have the meanings hereby respectively assigned to them :—

" Transport purposes " means all or any of the following purposes :—

(a) " railway transport purposes," that is to say, all purposes connected with the conveyance or transport by railway of passengers and their luggage, or of carriages, parcels, or merchandise, including the construction, maintenance, and repair of all ways, works, machinery, and plant used in connection with the undertaking;

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[6] See sec. 9 (2).

[7] These words are added by sec. 9 (4) in the application of the Act to Scotland.

(b) " canal transport purposes," that is to say, all purposes connected with the conveyance or transport by canal, or by a railway forming part of a canal undertaking, of passengers and their luggage, or of carriages, parcels, or merchandise, including the construction, maintenance, and repair of all ways, works, machinery, and plant used in connection with the undertaking;

(c) " dock purposes," that is to say, all purposes connected with the shipping or unshipping at a dock of passengers and their luggage, or of carriages, parcels, or merchandise, or the conveyance or transport thereof by a railway forming part of a dock undertaking, including the construction, maintenance, and repair of all ways, works, machinery, and plant used in connection with the undertaking, or connected with the provision of accommodation for vessels and their stores, equipment, and tackle (including fishing tackle), whether for purposes of repair or otherwise.

(3) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:

" Canal undertaking " includes any inland navigation undertaking comprising as part thereof an inland navigation used for the conveyance of merchandise, and " canal " in relation to such an undertaking shall be construed as including an inland navigation:

" Dock " includes any harbour, wharf, pier, jetty, or other works in or at which vessels can ship or un-ship merchandise or passengers, not being a pier or jetty primarily used for recreation:

" Dock undertaking " means an undertaking carried on by a dock authority, but also includes any other undertaking comprising as part thereof a dock in so far only as its business is carried on at and in connection with that dock:

" Dock authority " means any person or body of persons, whether incorporated or not, who are authorised to construct or are owners or lessees of any dock authorised by or under any Act:

" Light railway " includes a tramroad authorised by any special Act, but does not include any light railway laid wholly or mainly along a public carriageway and used wholly or mainly for the carriage of passengers:

" Light railway company " includes any person or body of persons, whether incorporated or not, who are authorised to construct or are owners or lessees of any light railway authorised by or under any Act or who are working a light railway under any working agreement:

" Merchandise " has the same meaning as that assigned to it by section fifty-seven of the Railways Act, 1921:

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"Railway company" has the same meaning as that assigned to it by section eighty-five of the Railways Act, 1921:

"Vessel" includes any ship or boat, or any other description of vessel used in navigation.

. . . .

6.—(3) For the purpose of determining in what proportions a freight transport hereditament is occupied and used for transport purposes and for other purposes, respectively, the hereditament shall be deemed to be occupied and used for transport purposes, except in so far as it is occupied and used for the purposes of a dwelling-house, hotel, or place of public refreshment:

Provided that—

(a) no part of a freight transport hereditament which is so let out as to be capable of separate assessment shall be deemed to be occupied and used for transport purposes unless it is actually so occupied and used; and

(b) in the case of a hereditament occupied and used for canal transport purposes as part of a canal undertaking or occupied and used for dock purposes as part of a dock undertaking no part of the hereditament, being a building, yard, or other place primarily occupied and used for warehousing merchandise not in the course of being transported, shall be deemed to be occupied and used for transport purposes.

Miscellaneous.

. . . .

Application to Scotland.

9. This Act shall apply to Scotland subject to the following modifications:—

(1) Sections one and two, and sub-section (1) of section four, and sub-sections (1) and (2) of section six shall not apply:

(2) For any reference to a hereditament there shall be substituted a reference to lands and heritages within the meaning of the Lands Valuation (Scotland) Act, 1854:

17 & 18 Vict. c. 91.

16 & 17 Geo. V. c. 47.

(3) The value of lands and heritages which is defined as the rateable value in section twenty-nine of the Rating (Scotland) Act, 1926, shall henceforth be termed, and is the value referred to in this Act as, the net annual value, and the rateable value of any lands and heritages for the purposes of the said Act shall until Parliament otherwise determines be taken to be the net annual value thereof:

(4) Paragraph (c) of sub-section (1) of section five of this Act shall have effect as if there were added after the word "undertakers" the following words "or with the provision of accommodation for fishing vessels":

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(5) The valuation roll shall show by distinguishing mark or otherwise what lands and heritages are respectively agricultural lands and heritages, industrial lands and heritages, and freight transport lands and heritages:

(6) Where industrial lands and heritages are occupied and used partly for industrial purposes and partly for other purposes, or where freight transport lands and heritages are occupied and used partly for transport purposes and partly for other purposes, the net annual value shall be apportioned by the assessor according to the occupation and use for industrial purposes or for transport purposes, as the case may be, and the occupation and use for other purposes:

(7) Where freight transport lands and heritages are not occupied and used for more than one transport purpose, the nature of that purpose shall be shown by distinguishing mark or otherwise in the valuation roll, and where freight transport lands and heritages are occupied and used partly for one transport purpose and partly for either or both of the other transport purposes, the net annual value shall be apportioned by the assessor according to the occupation and use for the several transport purposes:

(8) Any apportionment by the assessor in pursuance of either of the foregoing paragraphs shall be shown in the valuation roll:

(9) The provisions of the Lands Valuation (Scotland) Act, 1854, as amended by any subsequent enactment (including, without prejudice to the foregoing generality, the provisions with respect to notices to persons whose property is valued and with respect to appeals), shall apply with regard to any particular required by the foregoing provisions of this section to be shown in the valuation roll in like manner as those provisions apply with regard to the particulars required by any other enactment to be so shown:

(10) Any officer or person employed by the Commissioners of Inland Revenue and authorised by them for the purpose, shall, so far as regards any of the particulars required by the foregoing provisions of this section to be shown in the valuation roll have the like rights of complaint and appeal as are conferred on any party or body interested by the Lands Valuation (Scotland) Act, 1854, as amended by any subsequent Act, and shall if he considers that the yearly rent or value of any agricultural or industrial or freight transport lands and heritages entered in the valuation roll is excessive have the like right of appeal as is conferred by the said Act as so amended on the proprietor or tenant or occupier of lands and heritages, and shall also be entitled to appear and be heard in any proceeding under the said Act as so amended in

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which any question as to the application of the provisions of this Act to any lands and heritages is raised:

Provided that nothing in this paragraph shall apply to the valuation roll made up by the assessor of railways and canals or to any valuation roll for any year subsequent to the year beginning the sixteenth day of May, nineteen hundred and twenty-nine:

(11) The expression "agricultural lands and heritages" means any lands and heritages used for agricultural or pastoral purposes only or as woodlands, market gardens, orchards, allotments, or allotment gardens, and any lands exceeding one quarter of an acre used for the purpose of poultry farming, but does not include any lands occupied together with a house as a park, garden, or pleasure ground, or any land kept or preserved mainly or exclusively for sporting purposes:

(12) Minerals which are being worked shall, for the purposes of this Act, be deemed to be lands and heritages occupied and used as a mine:

(13) The foregoing provisions shall apply to any valuation roll (including a supplementary valuation roll) made up in accordance with the Lands Valuation (Scotland) Act, 1854, as amended by any subsequent Act or section sixty of the Burgh Police (Scotland) Act, 1903, as so amended, for the year beginning sixteenth May, nineteen hundred and twenty-nine, or for any subsequent year:

3. Edw. VII. c. 33.

(14) The assessor shall be entitled at any reasonable time of day, on giving not less than twenty-four hours' previous notice in writing to the occupier, to enter, survey, and value for the purposes of the Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act, including this Act, any lands and heritages within the county or burgh or district for which he acts as assessor, and if any person refuses to admit the assessor to enter any lands and heritages or obstructs him in making his survey or valuation he shall be liable on conviction by a court of summary jurisdiction to a penalty not exceeding twenty pounds:

(15) As respects the valuation of lands and heritages for the year beginning on the sixteenth day of May, nineteen hundred and twenty-nine, the following provisions shall have effect:—

(a) Any officer or person employed by the Commissioners of Inland Revenue and authorised by them for the purpose shall for the purpose of carrying out his powers and duties under this Act have the like rights as the assessor to enter, survey, and value any lands and heritages to which he has reason to believe the provisions of this Act may apply, and any person refusing to admit such officer or person or obstructing him in making his survey or valuation shall be liable on conviction by a court of summary jurisdiction to a penalty not exceeding twenty pounds;

(b) The Secretary of State may make regulations requiring the assessor to consult with any such officer or person employed as aforesaid as regards any particulars required by this section to be shown in the valuation roll, and generally for the purpose of carrying into effect the provisions of this Act, and such regulations may modify and adapt the provisions of the Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act. The regulations shall be laid before both Houses of Parliament as soon as may be after they are made:

Provided that, if an address is presented to His Majesty by either House within the next subsequent twenty-one days on which that House has sat after the regulations are laid before it, praying that the regulations may be annulled, the regulations shall thenceforth be void, without prejudice to the validity of anything previously done thereunder.

Short title, construction and extent.

10.—(1) This Act may be cited as the Rating and Valuation (Apportionment) Act, 1928.

Act 1929.

LOCAL GOVERNMENT (SCOTLAND) ACT, 1929.

(19 & 20 Geo. V. c. 25.)

An Act to transfer to county councils and to the town councils of certain burghs in Scotland functions of existing local authorities relating to poor relief, lunacy and mental deficiency, education, public health, and other matters; to amend the law relating to local government in Scotland; to extend the application of the Rating and Valuation (Apportionment) Act, 1928, to lands and heritages in which no persons are employed, to net and cruive salmon fishings and to minerals let but unworked; to grant relief from rates in the case of the lands and heritages in Scotland to which that Act applies; to discontinue grants from the Exchequer for certain purposes in Scotland and to provide other grants in lieu thereof; and for purposes consequential on the matters aforesaid.

[10th May, 1929.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal,

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and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

. . . .

PART II.

RATES OF AGRICULTURAL, INDUSTRIAL AND FREIGHT TRANSPORT LANDS AND HERITAGES.

Rateable value of agricultural lands and heritages.

44.—(1) For the purposes both of the owner's and of the occupier's share of rates as hereinafter defined, the annual value of agricultural lands and heritages shall be arrived at by deducting from the gross annual value, in lieu of the amount specified in the Act of 1926, an amount representing eighty-seven and one-half per cent., and accordingly the First Schedule to the Act of 1926 shall for the purposes of such rates have effect as if paragraph 14 and the words in the first column of paragraph 13 "for the purposes of the owner's share of rates" were omitted, and as if for the words in the second column of paragraph 13 "twenty-five per cent." there were substituted the words "eighty-seven and one-half per cent.," and any reference to the said Schedule in any Act or in any order made under the Act of 1926 shall be construed as a reference to the said Schedule as so amended.

(2) The rateable value of agricultural lands and heritages shall be the value ascertained in accordance with the foregoing sub-section to any adjustment required in accordance with sub-section (7) of section twelve of the Act of 1926 or section forty-five of the Burgh Police (Scotland) Act, 1903, or any corresponding provision of a local Act, and notwithstanding anything in the Act of 1926 as amended by the Rating and Valuation (Apportionment) Act, 1928, the net annual value of agricultural lands and heritages shall be taken to be the gross annual value subject to any such adjustment as aforesaid.

18 & 19 Geo. V. c. 44.

(3) No owner or occupier of agricultural lands and heritages shall by reason only of the foregoing provisions of this section be required to pay in respect of such lands and heritages any water rate leviable under a local Act on a higher annual value than that on which he would have been required to pay if the said provisions had not been enacted.

(4) Sub-section (1) of section twenty-nine of the Act of 1926, in so far as it directs that for the purpose of any apportionment between rating authorities the rateable value of agricultural lands and heritages shall be taken to be one-half of the gross annual value, shall cease to have effect.

(5) The definition of "agricultural lands and heritages" contained in the Rating and Valuation (Apportionment) Act, 1928, shall be substituted for the definition thereof contained in the Act of 1926.

Rateable value of industrial and freight transport lands and heritages.

45.—(1) The annual value of any industrial or freight transport lands and heritages so far as occupied and used or treated as occupied and used for industrial or freight transport purposes shall be—

(a) for the purpose of any rate leviable under a public general Act with respect to which no special provision is made in any local Act a sum arrived at by dividing the net annual value by four, which sum shall be the rateable value; and

(b) for the purpose of any rate leviable under a local Act or under a public general Act with respect to which special provisions are made in a local Act a sum arrived at by dividing by four the annual value on which such rate would be leviable if this Act had not passed:

Provided that in each of the foregoing cases where the value directed to be divided is arrived at after adjustment in accordance with sub-section (7) of section twelve of the Act of 1926, or section forty-five of the Burgh Police (Scotland) Act, 1903, or any corresponding provision of a local Act, the division directed by this section shall be made before such adjustment, and such adjustment shall thereafter be made.

(2) Where provision is made by a local Act for rates being levied in respect of lands and heritages belonging to any undertaking at a reduced rate per pound or upon a reduced valuation of the lands and heritages, or other provisions are made by such an Act in consequence of the undertaking providing services which would otherwise have been provided by the local authority, the Secretary of State may, on application by the local authority or by the undertaking, by order make such modifications or amendments of the provisions of the local Act as are equitable in the circumstances, and the provisions of sub-sections (5) and (6) of section twelve of the Act of 1926 (relating to the procedure with respect to orders thereunder) shall apply with respect to orders made under this sub-section.

Amendment of 18 & 19 Geo. V. c. 44.

46.—(1) For the purposes of the Rating and Valuation (Apportionment) Act, 1928, lands and heritages shall not be deemed not to be occupied and used as a factory or workshop by reason only of the fact that the owner or occupier of the lands and heritages is the only person working therein or that no other person working therein is in his employment.

(2) For the purposes of the Rating and Valuation (Apportionment) Act, 1928, the following lands and heritages shall be deemed to be industrial lands and heritages occupied and used wholly for industrial purposes, that is to say:

(a) Salmon fishings, so far as the right thereto is exercised by net or cruive, where such right of fishing by net or cruive is regularly exercised throughout that part of the year during which that method of fishing is permitted by law and where no revenue is derived by the owner or occupier from any other method of fishing in the said part of the year;

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(b) Minerals which are let notwithstanding that they are not being worked at the time.

Adjustments as to rating relief between landlords and tenants.

47.—(1) Every occupier of agricultural lands and heritages occupying under a lease entered into prior to the first day of June, nineteen hundred and twenty-eight, shall be entitled, on the fifteenth day of May in each year, to recover from the owner thereof by retention out of rent or otherwise a sum equal to the amount of the owner's share of the rates in respect of such lands and heritages payable for the year beginning on the sixteenth day of May, nineteen hundred and thirty, multiplied by two and one-half.

13 & 14 Geo. V. c. 10.

(2) Any sum recovered in pursuance of the foregoing sub-section from the owner of an agricultural holding shall be included among the amounts directed by sub-section (6) of section twelve of the Agricultural Holdings (Scotland) Act, 1923, to be deducted from the rent for the purpose of calculating compensation under that section.

(3) Every landholder and every statutory small tenant within the meaning of the Small Landholders (Scotland) Acts, 1886 to 1919, who is in occupation or who is the statutory successor of a landholder or statutory small tenant in occupation of a holding on the first day of June, nineteen hundred and twenty-eight, shall, so long as he remains in occupation of such holding, be entitled on the fifteenth day of May in each year to recover from the owner thereof by retention out of rent or otherwise a sum equal to the owner's share of the rates in respect of such holding payable for the year beginning on the sixteenth day of May, nineteen hundred and thirty, multiplied by two and one-half. This sub-section shall cease to have effect as regards any holding on the day following the first term of Whitsunday or Martinmas next succeeding the decision of the Land Court on an application for alteration of the fixed rent or in the case of a landholder, on the expiry of the period of seven years from the first day of June, nineteen hundred and twenty-eight, if during that period no such decision has been given.

(4) Every occupier of industrial lands and heritages occupying under a lease entered into prior to the first day of June, nineteen hundred and twenty-eight, shall be entitled on the fifteenth day of May in each year to recover from the owner thereof by retention out of rent or otherwise a sum equal to the owner's share of the rates in respect of such lands and heritages payable for the year ending on the said fifteenth day of May, multiplied by three.

(5) Any sum recovered from the owner of any lands and heritages in pursuance of the foregoing provisions of this section shall not be taken into account in ascertaining the gross annual value of the lands and heritages, but such owner shall be deemed to be charged therewith for the purposes of the Income Tax Acts.

(6) For the purposes of this section, a lease shall be deemed to have been entered into on the date of the term of entry thereunder, and the expression " lease " means a letting or agreement for letting for a term of years or for lives or for lives and years

or from year to year, and an occupier holding under tacit relocation following on a lease shall be deemed to be occupying under that lease, provided that this section shall not in the case of an occupier holding from year to year or under tacit relocation have effect after the expiry of seven years from the sixteenth day of May, nineteen hundred and twenty-eight.

Relief to occupiers of agricultural lands and heritages not to be taken account of for certain purposes.

48. Neither the relief to occupiers of agricultural lands and heritages effected by this Act or by the Agricultural Rates Act, 1923, as amended by the Act of 1926, nor the amounts recoverable by occupiers from owners under section forty-seven of this Act, shall be taken into account by the Land Court in fixing a fair or equitable rent for a holding under the Small Landholders (Scotland) Acts, 1886 to 1919, or by an arbiter in determining for the purposes of section twelve of the Agricultural Holdings (Scotland) Act, 1923, what rent is properly payable in respect of a holding.

13 & 14 Geo. V. c. 39.

Provisions as to valuation roll.

49.—(1) Sub-section (1) of section fourteen of the Act of 1926 (which section contains provisions as to the valuation roll), shall have effect as if after the words "said Acts show" there were inserted the words "the net annual value and also," and as if the words "and the amount of any deduction from the gross annual value for the purpose of ascertaining the rateable value" were omitted.

(2) Where a domestic water rate is leviable within a district under the Public Health (Scotland) Amendment Act, 1891, in respect of any agricultural lands and heritages, then either the valuation roll for the district, made up in accordance with the provisions of the Lands Valuation (Scotland) Act, 1854, shall, in addition to the other particulars required, show what would have been the rateable value of the said agricultural lands and heritages if this Act (other than sub-section (5) of section forty-four) had not passed, or a supplementary valuation roll in such form as the Secretary of State may by order prescribe shall be made up, showing what would have been the rateable value of such agricultural lands and heritages if this Act (other than as aforesaid) had not passed, and the provisions of the said Act of 1854 shall apply accordingly with respect to the further particulars included in the valuation roll or with respect to the supplementary valuation roll, as the case may be.

54 & 55 Vict. c. 52.

17 & 18 Vict. c. 91.

(3) As from the sixteenth day of May, nineteen hundred and thirty, the assessor of a county in making up the valuation roll of the county shall distinguish in the roll lands and heritages situated within the boundaries of each district of a district council.

(4) For the purpose of any apportionment of expenses between rating authorities according to the valuation roll for the year beginning on the sixteenth day of May, nineteen hundred and twenty-nine, the rateable valuation of the area of a rating authority shall be ascertained as if the rateable value of agricultural lands and heritages in that roll had been ascertained in accordance with the provisions of section forty-four of this Act instead of in accordance with the provisions of section fifty of this Act; and there shall be included in the said valuation roll in the

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case of each area for the purposes of which lands and heritages situated therein require to be distinguished a note showing what the rateable valuation of the area would have been had the rateable value of the agricultural lands and heritages therein been ascertained in accordance with the said section forty-four.

Commencement and provision for the year 1929-39.

50. The provisions of this Part of this Act shall come into operation on the sixteenth day of May, nineteen hundred and twenty-nine, and as regards the year beginning on the said day shall have effect subject to the following modifications :—

(i) The rate of deduction from the gross annual value of agricultural lands and heritages shall be for the purposes both of the owner's and of the occupier's share of rates, ninety-two per cent.

(ii) The provisions with regard to the rateable value of industrial and freight transport lands and heritages shall have effect as if in lieu of any direction to divide a value by four there were substituted a direction to multiply such value by eight and divide it by fifteen.

(iii) The sum recoverable under sub-section (1) or sub-section (3) of section forty-seven of this Act from the owner of agricultural lands and heritages or of a holding shall be a sum equal to the amount of the owner's share of the rates for the said year in respect of the said lands and heritages multiplied by four, and the sum recoverable under sub-section (4) of the said section from the owner of industrial lands and heritages shall be seven-eighths of the amount of the owner's share of the rates for the said year in respect of the said lands and heritages.

(iv) For the purposes of any requisition or certificate issued in respect of the said year, every county council, district board of control, education authority, and parish council and other body issuing such requisition or certificate shall proceed in all respects as if this Act had not been passed, and the county council or town council or other authority to whom the requisition or certificate has been issued shall make payment accordingly.

Construction.

51. The provisions of this Part of this Act shall be construed as one with the Act of 1926.

. . . .

Part IV.

General.

Orders.

76.—(1) The Secretary of State may by order make any adaptations or modifications of the provisions of any Act necessary to bring those provisions into conformity with the provisions of this Act.

(2) Every order made under the foregoing sub-section shall come into operation upon the date specified therein in that behalf, and shall be laid before Parliament as soon as may be after it is made, and such order shall cease to have effect upon the expiration of a period of three months from the date upon which it came into operation unless prior to the expiration of that period it has been approved by a resolution passed by each House of Parliament:

Provided that, in reckoning any such period of three months as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

(3) An order under the foregoing provisions of this section shall not be made after the thirty-first day of December, nineteen hundred and thirty.

(4) The Secretary of State may by order make such adaptations in the provisions of any local Act as may seem to him to be necessary in order to make those provisions conform with the provisions of this Act or in order to make an equitable adjustment or apportionment of any expenditure or payment under the local Act consequent on the carrying into effect of the provisions of this Act.

(5) Every order made under the immediately preceding sub-section of this section or under sub-section (2) of section two or sub-section (2) of section seventy-one of this Act shall be laid before both Houses of Parliament forthwith, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat, after any such order is laid before it, praying that the order may be annulled, it shall henceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new order.

(6) Any order made under this Act may be revoked or altered by a subsequent order.

(7) This section shall come into operation on the sixteenth day of May, nineteen hundred and twenty-nine.

Interpretation.

77.—(1) In this Act, unless the context otherwise requires—

. . . .

18 & 19 Vict. c. 68.

"Act of 1926" means the Rating (Scotland) Act, 1926:

"Agricultural lands and heritages," "industrial lands and heritages," "freight transport lands and heritages," "industrial purposes" and "freight transport purposes" have the meanings respectively assigned to them in the Rating and Valuation (Apportionment) Act, 1928:

. . . .

"Gross annual valuation" has the meaning assigned to it in the Act of 1926:

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"Landward" in relation to a county or parish means the county or parish excluding any burghs:

. . . .

"Local Act" includes a provisional order confirmed by Act of Parliament:

54 & 55 Vict. c. 34.

"Local authority" has the meaning assigned to it in the Local Authorities Loans (Scotland) Act, 1891:

. . . .

"Parish Council" includes any landward committee thereof and two or more parish councils acting in combination:

. . . .

8 & 9 Vict. c. 83.

"Poor Law Acts" means the Poor Law (Scotland) Act, 1845, and the Acts amending that Act, including this Act:

. . . .

"Rateable value" and "Rateable valuation" have the meaning respectively assigned to them in the Act of 1926 as amended by the Rating and Valuation (Apportionment) Act, 1928, and Part II. of this Act:

"Rate" includes water rate, but does not include the fishery assessment levied under the Salmon Fisheries (Scotland) Act, 1862, and the Acts amending that Act or under any corresponding provisions of a local Act:

"Rating authority" means, as respects the landward part of a county, the county council, and, as respects a burgh, the town council and "rating area" shall be construed accordingly:

. . . .

"Valuation Acts" means the Lands Valuation (Scotland) Act, 1854, and the enactments amending that Act, including this Act:

"Water rate" (except in the section of this Act relating to consolidated rate) does not include a rate levied as a domestic water rate.

. . . .

Citation and commencement.

80.—(1) This Act may be cited as the Local Government (Scotland) Act, 1929.

(2) Save as otherwise expressly provided, this Act shall come into operation on the sixteenth day of May, nineteen hundred and thirty.

VALUATION ROLL (SCOTLAND) ORDER, 1929.

Order 1929.

At the Court at Buckingham Palace, the 5th day of July, 1929.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by subsection (4) of Section three of the Registration Amendment (Scotland) Act, 1885 (48 & 49 Vict. c. 16), it is provided that the Valuation Roll shall be in the form contained in the Schedule to that Act until such form is altered by His Majesty by Order in Council:

And whereas by subsection (1) of Section fourteen of the Rating (Scotland) Act, 1926 (16 & 17 Geo. V. c. 47) (hereinafter referred to as the Act of 1926) as amended by subsection (1) of Section forty-nine of the Local Government (Scotland) Act, 1929 (19 & 20 Geo. V. c. 25) (hereinafter referred to as the Act of 1929), it is provided that every Valuation Roll shall, in addition to the other particulars required, show the net annual value and also the rateable value of the lands and heritages:

And whereas in consequence of the provisions of subsection (1) of Section fourteen of the Act of 1926 as originally enacted, an altered form of Valuation Roll was prescribed by the Valuation Roll (Scotland) Order, 1927 (S.R. & O., 1927 (No. 249), p. 1836):

And whereas in consequence of the provisions of the Rating and Valuation (Apportionment) Act, 1928 (hereinafter referred to as the Act of 1928) and the Act of 1929, it is necessary to prescribe an altered form of Roll:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

Short Title.

1. This Order may be cited as the Valuation Roll (Scotland) Order, 1929.

Interpretation.

2.—(1) In this Order "Agricultural lands and heritages" and "Freight transport lands and heritages" have the meanings respectively assigned to them in the Act of 1928, and "Industrial lands and heritages" has the meaning assigned to it in the Act of 1928 as amended by the Act of 1929.

(2) In the Schedule to this Order—

"Class No." and "Percentage," in relation to any lands and heritages, mean respectively the number of the paragraph of the First Schedule to the Act of 1926 and the percentage rate of deduction specified in that Schedule as amended by the Act of 1929 applicable in the case;

"Net annual value" has the meaning assigned to it in subsection (3) of Section nine of the Act of 1928 except in the case of agricultural lands and heritages in which case it has the meaning assigned to it by subsection (2) of Section forty-four of the Act of 1929;

"Rateable value" has the meaning assigned to it in subsection (1) of Section twenty-nine of the Act of 1926, as amended by subsection (3) of Section nine of the Act of 1928, and Sections forty-four and forty-five of the Act of 1929.

(3) The Interpretation Act, 1889 (52 & 53 Vict. c. 63), applies to the interpretation of this Order as it applies to the Interpretation of an Act of Parliament.

Revocation of existing Order.

3. The Valuation Roll (Scotland) Order, 1927, is hereby revoked, without prejudice to the validity of anything done thereunder.

Form of Valuation Roll.

4.—(1) Subject to the provisions with respect to modifications hereinafter contained, the Valuation Roll shall be set forth in the Schedule to this Order.

(2) The following modifications or any of them may be made in the Valuation Roll for any county or any part thereof or for any burgh, if the county council or town council by whom the Roll is made up shall so determine:—

(*a*) the subdivision of the column of the Roll headed "Description and situation of subject" may be dispensed with;

(*b*) the columns of the Roll headed "Proprietor" "Tenant" and "Occupier" or any two of these columns may be combined and in that event where the names of different persons fall to be included in the column by reason of their different qualifications the Roll shall show, in such manner as shall be indicated by a note thereto, the different qualifications of the persons whose names are included in the column;

(*c*) the Roll may be made up without the column headed "Inhabitant Occupier not rated" and its subdivisions, and in the event of the Roll being so made up and of there being an inhabitant occupier not rated whose name would have been entered in the said column, his name shall be entered in the same column as that in which the name of the occupier is entered and there shall be added after the name of such inhabitant occupier the letters "I O" and also, unless the council by whom the Roll is made up shall otherwise determine, the annual value of the dwelling occupied by the inhabitant occupier;

(*d*) the Roll may be made up in parts and in that event—

(i) Part I of the Roll shall contain (A) all lands and heritages from the gross annual value of which the deductions specified in the First Schedule to the Act of 1926 as amended by Section forty-four of the Act of 1929 are made in ascertaining the net annual value in the case of lands and heritages other than agricultural lands and heritages and the rateable value in the case of agricultural lands and heritages and (B) any other lands and heritages classified as industrial lands and heritages or as freight transport lands and heritages;

(ii) Part II of the Roll shall contain all other lands and heritages; provided that there may be excluded from Part II and included in another Part (Part III) all lands and heritages the rateable value of which is nil. In Part II and Part III the column headed "Deduction from Gross Annual Value for ascertaining Net Annual Value" (including its subdivisions) shall be omitted, and the column headed "Net Annual Value" and "Rateable Value" may be combined. If in every case to which Part II applies the gross annual value is also the net annual value and the rateable value, the columns headed "Gross Annual Value, being yearly rent or value," "Net Annual Value" and "Rateable Value" may be combined. In Part III there may be added to the heading of the column headed "Gross Annual Value, being yearly rent or value" the words "the Net Annual Value and Rateable Value in each case is nil" and in that event the columns relating to net annual value and rateable value may be omitted;

(*e*) A column may be inserted in the Roll showing the amount of the deduction under the First Schedule to the Act of 1926 for the purpose of ascertaining the net annual value;

(*f*) As respects the column headed "Net Annual Value" there may be included in the heading a statement that the column is limited to cases in which the net annual value differs from the rateable value or a statement that the column is limited to cases of agricultural lands and heritages the net annual value of which differs from the gross annual value and to cases of other lands and heritages the net annual value of which differs from the rateable value. Any such statement as aforesaid, instead of being actually incorporated in the heading, may be included in a note to the Roll provided reference is made to the note in the heading;

(*g*) Columns may be included in the Roll or where the Roll is made up in parts in Part I of the Roll (*a*) for the purpose of showing the apportionments of net annual value required to be so shown in the case of industrial lands and heritages or freight transport lands and heritages in pursuance of subsections (6), (7) and (8) of Section nine of the Act of 1928, or (*b*) for the purpose of showing the amount of the deduction in ascertaining the rateable value of agricultural lands and heritages, industrial lands and heritages, and freight transport lands and heritages, under the Act of 1929.

(3) For the purpose of carrying into effect the provisions of subsections (5) and (7) of Section nine of the Act of 1928 there shall be included in the Roll, according as the county council or town council by whom the Roll is made up determine, either a column showing what lands and heritages are respectively agricultural lands and heritages, industrial lands and heritages, and freight transport lands and heritages and the nature of the transport purpose in the case of freight transport

Order 1929. lands and heritages not occupied and used for more than one transport purpose or a statement showing by what means the provisions of the said subsections are being carried into effect.

(4) The Valuation Roll for a burgh may if the town council by whom the Roll is made up so determine, include a column headed "Feuduty or Ground Annual."

(5) Where a domestic water rate is leviable within a district under the Public Health (Scotland) Amendment Act, 1891 (54 & 55 Vict. c. 52), in respect of any agricultural lands and heritages, then, if for the purpose of complying with the provisions of subsection (2) of Section forty-nine of the Act of 1929, the county council by whom the Roll is made up so determine, the Roll may include a column showing what would have been the rateable value of such agricultural lands and heritages if the Act of 1929 (other than subsection (5) of Section forty-four) had not passed and having the following heading or any other heading substantially to the like effect, that is to say, "Agricultural Subjects Rateable Value for Domestic Water Rate under Public Health (Scotland) Amendment Act, 1891," and there may be subdivisions of the column headed respectively "Proprietor" and "Occupier."

M. P. A. Hankey.

Order 1929.

SCHEDULE REFERRED TO IN THE FOREGOING ORDER IN COUNCIL.

VALUATION ROLL FOR THE BURGH (OR COUNTY) OF FOR THE YEAR, 19 -19 .

No.	Description and Situation of Subject.			Proprietor.	Tenant.	Occupier.	Inhabitant Occupier not Rated.		Gross Annual Value being yearly Rent or Value.	Deduction from Gross Annual Value for ascertaining Net Annual Value.		Net Annnal Value.	Rateable Value.
	Description.	Situation.					Inhabitant Occupier.	Annual Value of Dwelling-house.		Class No.	Per-centage.		
			No.						£ s. d.			£ s.	

PART II.

LOCAL AND PERSONAL ACTS.

APPENDIX II.

GLASGOW CORPORATION ORDER CONFIRMATION ACT, 1924.

(15 Geo. V. c. 4.)

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1899, relating to Glasgow Corporation.

[18th December, 1924.]

Whereas His Majesty's Secretary for Scotland has, after inquiry held before Commissioners, made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act, 1899, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

2. This Act may be cited as the Glasgow Corporation Order Confirmation Act, 1924.

SCHEDULE.

Glasgow Corporation.

Provisional Order . . . to consolidate, with amendments, the provisions of the Glasgow Corporation Acts, 1885 to 1923, relating to the valuation of lands and heritages . . . and for other purposes.

[18th December, 1924.]

. . . .

And whereas it is expedient that the existing provisions for the supplementary valuation roll for the city should be amended and that the other provisions relating to the valuation of lands and heritages in the Glasgow Corporation Acts, 1855 to 1923, should be consolidated and amended as in this Order provided.

. . . .

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland, confirmed by Parliament under the Private Legislation Procedure (Scotland) Act, 1899:

PART I.

PRELIMINARY.

1. This Order may be cited as the Glasgow Corporation Order, 1924.

. . . .

2. This Order is divided into Parts as follows:—

. . . .

PART V.

VALUATION OF LANDS AND HERITAGES.

. . . .

3. The following words and expressions in this Order have the meanings hereby assigned to them (that is to say):—

. . . .

"City" means the city and royal burgh of Glasgow;

. . . .

"Corporation" means the Corporation of the city of Glasgow;

. . . .

"Lands Valuation Acts" means the Lands Valuation (Scotland) Act, 1854, and the Acts amending the same;

"Lands and heritages," where occurring in Part V. of this Order, has the same meaning as in the Lands Valuation Acts;

. . . .

PART V.

VALUATION OF LANDS AND HERITAGES.

26. The sections of the Orders specified in the Second Schedule to this Order shall cease to have effect on the first day of January, one thousand nine hundred and twenty-five, and as on that date are hereby repealed, and, in lieu thereof, the provisions contained in this Part of this Order shall from and after that date apply and have effect.

27.—(1) The Corporation, acting under the Lands Valuation Acts, in addition to the ordinary valuation roll for the city made up under the said Acts as at the fifteenth day of August in each year, shall, between the first day of January and the fifteenth day of March in each year, cause to be made up by the assessor for the city, under the said Acts, a supplementary valuation roll, showing for the year or the portion of the year to Whitsunday next, in the form prescribed for the said ordinary valuation roll, the rent or value of all lands and heritages within the city:—

(a) which were in existence prior to the term of Whitsunday immediately preceding, and which owing to error were not included in or were omitted from the said ordinary valuation roll last made up;

(b) which have come into existence after the term of Whitsunday immediately preceding, and which were not included in the said ordinary valuation roll;

(c) which were included but entered as unoccupied or empty in the said ordinary valuation roll, and which have become occupied after the term of Whitsunday immediately preceding;

(d) which were included and entered as occupied in the said ordinary valuation roll, and for which one or more tenants jointly or severally pay or are liable to pay to the owner of such lands and heritages as the rent or value thereof for or in respect of the year to Whitsunday then next a sum greater than the amount entered as the rent or value thereof in the said ordinary valuation roll: Provided that, in any such case, the rent or value to be entered in the supplementary valuation roll shall be the difference between the amount entered in the said ordinary valuation roll and the rent or value of such lands and heritages payable as aforesaid by one or more tenants for or in respect of the said year;

(e) which were included and entered as occupied in the said ordinary valuation roll, but the tenant of which sublets them or acquiesces in or consents to the subletting of them for a sum greater than the amount entered as the rent or value thereof in the said ordinary valuation roll: Provided that, in any such case, the rent or value to be entered in the supplementary valuation roll shall be the difference between the amount entered in the said ordinary valuation roll and the rent or value of such lands and heritages payable in respect of such sublet as aforesaid by the sub-tenant, and provided further that, as regards such greater amount of rent or value, the tenant shall be deemed and taken to be and shall be entered in the supplementary valuation roll as proprietor or owner of the lands and heritages, and the sub-tenant shall be deemed and taken to be and shall be entered as occupier of the lands and heritages; and

(f) which were included and entered as occupied in the said ordinary valuation roll, but the tenant of which sublets or acquiesces in or consents to the subletting of a part thereof, in which case the rent or value for or in respect of the year to Whitsunday then next payable by such tenant under any lease or agreement shall not be taken to be conclusive as to the rent or value of such lands and heritages, but the rent or value thereof shall be ascertained in terms of the Lands Valuation Acts irrespective of the amount of rent or value payable under such lease or agreement: Provided that if in any such case the rent or value so ascertained shall be greater than the amount entered as the rent or value thereof in the said ordinary valuation roll, the rent or value to be entered in the supplementary valuation roll shall be the difference between the amount entered in the said ordinary valuation roll and the rent or value so ascertained of such lands and heritages, and provided further that as regards such greater amount of rent or value the tenant shall be deemed and taken to be and shall be entered in the supplementary valuation roll as proprietor or owner of the lands and heritages, and the sub-tenant shall be deemed and taken to be and shall be entered as occupier of the lands and heritages, but the sub-tenant shall not be so entered as occupier for an amount greater than the rent or value payable by him;

(2) The provisions of the two immediately preceding paragraphs (e) and (f) shall not apply to lands and heritages which are—

(a) used as dwelling houses; or

(b) let to or are only occupied by the same sub-tenant for a period less than six months in the year to which the said ordinary valuation roll applies.

(3) The provisions of the Lands Valuation Acts, including the provisions as to notices, appeals, and courts for hearing the same shall, *mutatis mutandis*, be applicable to such supplementary valuation roll as if it were therein referred to.

(4) For the purposes of hearing and disposing of appeals against valuations entered in the supplementary valuation roll, the burgh Valuation Courts of Appeal, as established under the Lands Valuation Acts, shall be held between the fifteenth day of March and the fifteenth day of April in each year.

(5) The Corporation and any other assessing authorities in the city imposing any assessment upon the basis of the said ordinary valuation roll may impose, in respect of all lands and heritages entered in such supplementary valuation roll, supplementary assessments which shall be made so far as possible in the same manner, under the same conditions, and with the same powers of recovery as are applicable to the corresponding assessments imposed upon the basis of the said ordinary valuation roll: Provided that no such lands and heritages shall be liable to be assessed more than once in any one year for the same rate or assessment in respect of the same rent or value.

(6) All expenses incurred by the Corporation in giving effect to the provisions of this section shall be defrayed in the same manner as the costs and expenses of and in connection with the said ordinary valuation roll.

28. In its application to the city, section 5 (Notice to be given to persons whose property is valued) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words—

(1) " fifteenth day of June " were substituted for the words " fifteenth day of July " occurring therein;
(2) " third day of September " were substituted for the words " eighth day of September " occurring therein;
(3) " at " were inserted between the words " the same " and " or sending " occurring therein;
(4) " to his usual place of business or to " were substituted for the word " at " first occurring therein; and
(5) " the place of business or " were inserted between the words " and where " and " the residence " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament, in its application to the city, read as follows:—

> " On or before the twenty-fifth day of August, and not earlier than the fifteenth day of June in each year, the assessor shall transmit or cause to be transmitted to each person included in his valuation, whether as proprietor or tenant or occupier, a copy of every entry in such valuation roll wherein such person shall be set forth either as proprietor or tenant or occupier, along with a notice to such person that if he considers himself aggrieved by such valuation he may appeal against the same to the commissioners of supply of the county or to the magistrates of the burgh as the case may be, in terms of this Act, or may obtain redress without the necessity of such appeal by satisfying the assessor on or before the third day of September in each year, that he has well-founded ground of complaint, and such copy and notice may be served by handing the same to such person personally or leaving the same at or sending it through the post office to his usual place of business or to his residence or usual place of abode; and where the place of business or the residence or place of abode of such person is unknown it shall be sufficient if service be made as aforesaid upon his factor or agent or be addressed to him at the office of the clerk of supply of the county or town-clerk of the burgh as the case may be: Provided always that where, in making up his valuation as aforesaid, the assessor is merely to repeat an entry which occurred in the valuation of the immediately preceding year, it shall not be necessary for the assessor to transmit such copy and notice as aforesaid to the person or persons specified in such merely repeated entry."

29.—(1) In its application to the city, section 8 (Courts of Appeal) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words—

(a) " nineteenth but not earlier than the fifteenth day of September " were substituted for the words " fifteenth but not earlier than the tenth day of September " occurring therein;
(b) " by such assessors to each appellant as hereinafter in

this Act provided " were inserted between the words " be given " and " which Court " occurring therein; and

(c) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament, in its application to the city, read as follows:—

> " The commissioners of supply of every county and the magistrates of every burgh shall annually on or before the nineteenth but not earlier than the fifteenth day of September in each year, hold a Court for hearing appeals against valuations made by such assessors as aforesaid under this Act, of which ten days' notice shall be given by such assessors to each appellant as hereinafter in this Act provided, which Court may be adjourned from time to time; and at such Court and at latest on or before the fifteenth day of October in each year, all such appeals and complaints under this Act shall be disposed of; and such Courts or adjourned Courts of Appeal shall be held in such and as many places within such county and burgh respectively as such commissioners and magistrates respectively shall appoint; and the deliverances of such commissioners and magistrates respectively upon such appeals and complaints shall be final and conclusive and not subject to review."

(2) In its application to the city, section 7 (Time for lodging appeals against assessor's entries in valuation roll) of the Valuation of Lands (Scotland) Amendment Act, 1867, shall be read and have effect as if the words—

(a) " or complaints " and " or complaint " occurring therein were deleted;

(b) " third day of September " were substituted for the words " tenth day of September " occurring therein; and

(c) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament, in its application to the city, read as follows:—

> " All appeals against any entry in the valuation roll made up in terms of the said recited Acts and of this Act either by the assessors appointed by the commissioners of supply of any county or by the magistrates of any burgh or by the Assessor of Railways and Canals, shall, except as after provided, be lodged not later than the third day of September in each year, and every such appeal shall, except as aforesaid, be heard and determined not later than the fifteenth day of October in each year."

30. In its application to the city, section 9 (Persons entitled to appeal) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if—

(1) the words " not later than the third day of September

lodge an appeal in writing with the assessor " were substituted for the words " six days at least before such appeal is heard intimate in writing to the assessor that he is to maintain such appeal " occurring therein; and

(2) the following provisos were added to that section:—" and provided further—

" (a) that where an appellant at the hearing of an appeal refers to or leads evidence in respect of premises, other than the premises referred to in such appeal, and has not at least two days before the date on which the appeal is heard furnished in writing to the assessor the address of such premises, the assessor may, at the close of the case for the appellant, make an application to the Court for a continuation of such hearing, which application the Court shall grant, if and so far as this can be done so as to admit of the appeal being heard and determined within the time prescribed by this Act for the holding of such Courts; and

" (b) that ten days at least before the date fixed for the hearing of the appeal the assessor shall by notice in writing intimate to the appellant such date which notice shall be accompanied by a copy of the immediately preceding provision of this section with regard to other premises proposed to be referred to at such hearing,"

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament, in its application to the city, read as follows:—

" All persons whose names shall have been entered by the assessors in the valuation roll of the county or burgh respectively, whether as proprietors or tenants or occupiers, shall be entitled to appeal to the said commissioners or magistrates, as the case may be, with reference to such entry: Provided always, that the appellant shall, not later than the third day of September, lodge an appeal in writing with the assessor and specify the amount of valuation which he alleges should be substituted for the amount stated by the assessor: and provided further—

" (a) that where an appellant at the hearing of an appeal refers to or leads evidence in respect of premises, other than the premises referred to in such appeal, and has not at least two days before the date on which the appeal is heard, furnished in writing to the assessor the address of such premises, the assessor may, at the close of the case for the appellant, make an application to the Court for a continuation of such hearing, which application the Court shall grant, if and so far as this can be done so as to admit of the appeal being heard and determined within the time prescribed by this Act for the holding of such Courts; and "(b) that ten days at least before the date fixed for the hearing of the appeal the assessor shall by notice in writing intimate to the appellant such date which notice shall be accompanied by a copy of the immediately preceding provision of this section with regard to other premises proposed to be referred to at such hearing."

31. Any factor, agent, or person acting for or in name or on behalf of a proprietor or tenant or occupier of lands and heritages who shall knowingly or wilfully present or cause to be presented to the assessor for the city, under the Lands Valuation Acts, a false statement of the yearly rent or value of any such lands and heritages within the city belonging to or occupied by the proprietor or tenant or occupier for or in name or on behalf of whom he acts, shall be liable to the penalty imposed by the said Acts upon proprietors, tenants, or occupiers of lands and heritages presenting or causing to be presented false statements to such assessor, and such penalty shall be recovered and applied in the way and manner provided by the said Acts.

32. Notwithstanding anything contained in the Lands Valuation Acts or the Registration Amendment (Scotland) Act, 1885, the valuation roll for the city made up under the Lands Valuation Acts shall when printed be either in the form prescribed by the said Registration Amendment (Scotland) Act, 1885, or any Order made thereunder, or in the form contained in the Third Schedule to this Order.

33. Nothing in this part of this Order contained shall extend or apply to the Assessor of Railways and Canals under the Lands Valuation Acts or to the valuation roll made up by him under those Acts.

. . . .

THIRD SCHEDULE.

REFERRED TO IN THE SECTION OF THIS ORDER OF WHICH THE MARGINAL NOTE IS "FORM OF VALUATION ROLL."

VALUATION ROLL FOR THE CITY AND ROYAL BURGH OF GLASGOW FOR THE YEAR.............., PARISH OF ....

Consecutive No.	Description and Situation of Subject.	Proprietor, Tenant, Occupier, or Inhabitant Occupier.	Yearly Rent or Value.

Note to be prefixed to the valuation roll, and where the roll is made up in more than one volume, to be prefixed to each volume—

" The name of the proprietor is printed in capital letters. The name of the tenant and occupier is printed in ordinary type, a little to the right hand under the name of the proprietor of the subject. The following abbreviations have the meanings aftermentioned :—

" (1) P. and O. means proprietor and occupier;
" (2) T. ,, tenant who is not also occupier;
" (3) O. ,, occupier who is not also tenant;
" (4) I.O. ,, inhabitant occupier.

" Where no letter appears after the name of a tenant, such tenant is also occupier of the subject."

ABERDEEN CORPORATION ORDER CONFIRMATION ACT, 1925.

(15 & 16 Geo. V. c. 129.)

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1899, relating to Aberdeen Corporation.

[22nd December, 1925.]

Whereas His Majesty's Secretary for Scotland has made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act, 1899, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

1. The Provisional Order contained in the Schedule hereunto annexed shall be and the same is hereby confirmed.

2. This Act may be cited as the Aberdeen Corporation Order Confirmation Act, 1925.

SCHEDULE.

Aberdeen Corporation.

Provisional Order to authorise the Corporation of the City and Royal Burgh of Aberdeen to use part of the Links for entertainment buildings; to make further provision with respect to the Esplanade; to borrow further moneys; and to make provision for other purposes.

Whereas the Lord Provost, Magistrates, and Town Council of the City and Royal Burgh of Aberdeen (hereinafter called " the Corporation" and "the city" respectively) are vested with the municipal and police administration of the city:

. . . .

And whereas it is expedient that further provision should be made for the making of a supplementary valuation roll for the assessment of lands and heritages within the city, and that other provision should be made by way of amendment of the Lands Valuation (Scotland) Acts for the issue of notices of valuation, the holding of Appeal Courts and the lodging of appeals:

. . . .

1. This Order may be cited as the Aberdeen Corporation Order, 1925, and this Order and the Aberdeen City Acts, 1862 to 1922, may be cited together as the Aberdeen City Acts, 1862 to 1925.

. . . .

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction, and the following expressions in this Order shall have the meanings assigned to them in this section:—

. . . .

"The Lands Valuation Acts" means the Lands Valuation (Scotland) Act, 1854, and the Acts amending the same;

. . . .

27. So much of section 16 (Adoption of sections 45 and 60 of Burgh Police (Scotland) Act, 1903) of the Order of 1911 and the Third Schedule to the said Order as provides for the adoption of section 60 of the Burgh Police (Scotland) Act, 1903, and the application thereof to the city is hereby repealed as from the first day of January, one thousand nine hundred and twenty-six, and on and after that day the following provisions with respect to the valuation of lands and heritages within the city shall apply and have effect (that is to say):—

(1) The Corporation, acting under the Lands Valuation Acts, in addition to the ordinary valuation roll for the city made up under the said Acts as at the fifteenth day of August in each year, shall between the first day of January and the fifteenth day of March in each year cause to be made up by the assessor for the city under the said Acts a supplementary valuation roll showing for the year or the portion of the year to Whitsunday then next in the form prescribed for the said ordinary valuation roll the rent or value of all lands and heritages within the city:—

(a) which were in existence prior to the term of Whitsunday immediately preceding, and which owing to error were not included in or were omitted from the said ordinary valuation roll last made up;

(b) which have come into existence after the term of Whitsunday immediately preceding, and which were not included in the said ordinary valuation roll;

(c) which were included but entered as unoccupied or empty in the said ordinary valuation roll, and which have become occupied after the term of Whitsunday immediately preceding;

(d) which were included and entered as occupied in the said ordinary valuation roll and for which one or more tenants jointly or severally pay or are liable to pay to the owner of such lands and heritages as the rent or value thereof for or in respect of the year to Whitsunday then next a sum greater than the amount entered as the rent or value thereof in the said ordinary valuation roll: Provided that in any such case the rent or value to be entered in the supplementary valuation roll shall be the difference between the amount entered in the said ordinary valuation roll and the rent or value of such lands and heritages payable as aforesaid by one or more tenants for or in respect of the said year.

(2) The provisions of the Lands Valuation Acts, including the provisions as to notices, appeals, and Courts for hearing the same shall, *mutatis mutandis*, be applicable to such supplementary valuation roll as if it were therein referred to.

(3) For the purposes of hearing and disposing of appeals against valuations entered in the supplementary valuation roll, the Burgh Valuation Courts of Appeal as established under the Lands Valuation Acts shall be held between the fifteenth day of March and the fifteenth day of April in each year.

(4) The Corporation and any other assessing authorities in the city imposing any assessment upon the basis of the said ordinary valuation roll may impose in respect of all lands and heritages entered in such supplementary valuation roll supplementary assessments, which shall be made so far as possible in the same manner, under the same conditions, and with the same powers of recovery as are applicable to the corresponding assessments imposed upon the basis of the said ordinary valuation roll: Provided that no such lands and heritages shall be liable to be assessed more than once in any one year for the same rate or assessment in respect of the same rent or value.

(5) All expenses incurred by the Corporation in giving effect to the provisions of this section shall be defrayed in the same manner as the costs and expenses of and in connection with the said ordinary valuation roll.

28. In its application to the city, section 5 (Notice to be given to persons whose property is valued) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words—

(1) "fifteenth day of June" were substituted for the words "fifteenth day of July" occurring therein;

(2) "third day of September" were substituted for the words "eighth day of September" occurring therein;

(3) " at " were inserted between the words " the same " and " or sending " occurring therein;

(4) " to his usual place of business or to " were substituted for the word " at " first occurring therein; and

(5) " the place of business or " were inserted between the words " and where " and " the residence " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament in its application to the city, read as follows:—

> " On or before the twenty-fifth day of August, and not earlier than the fifteenth day of June in each year, the assessor shall transmit or cause to be transmitted to each person included in his valuation, whether as proprietor or tenant or occupier, a copy of every entry in such valuation roll wherein such person shall be set forth either as proprietor or tenant or occupier, along with a notice to such person that if he considers himself aggrieved by such valuation he may appeal against the same to the commissioners of supply of the county or to the magistrates of the burgh as the case may be, in terms of this Act, or may obtain redress without the necessity of such appeal by satisfying the assessor on or before the third day of September in each year, that he has well-founded ground of complaint, and such copy and notice may be served by handing the same to such person personally or leaving the same at or sending it through the post office to his usual place of business or to his residence or usual place of abode; and where the place of business or the residence or place of abode of such person is unknown it shall be sufficient if service be made as aforesaid upon his factor or agent or be addressed to him at the office of the clerk of supply of the county or town-clerk of the burgh as the case may be: Provided always that where, in making up his valuation as aforesaid, the assessor is merely to repeat an entry which occurred in the valuation of the immediately preceding year, it shall not be necessary for the assessor to transmit such copy and notice as aforesaid to the person or persons specified in such merely repeated entry."

29.—(1) In its application to the city, section 8 (Courts of Appeal) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words—

(a) " nineteenth but not earlier than the fifteenth day of September " were substituted for the words " fifteenth but not earlier than the tenth day of September " occurring therein;

(b) " by such assessors to each appellant as hereinafter in this Act provided " were inserted between the words " be given " and " which Court " occurring therein; and

(c) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament in its application to the city, read as follows:—

> " The commissioners of supply of every county and the magistrates of every burgh shall annually, on or before the nineteenth but not earlier than the fifteenth day of September in each year, hold a Court for hearing appeals against valuations made by such assessors as aforesaid under this Act, of which ten days' notice shall be given by such assessors to each appellant as hereinafter in this Act provided, which Court may be adjourned from time to time; and at such Court, and at latest on or before the fifteenth day of October in each year, all such appeals and complaints under this Act shall be disposed of; and such Courts or adjourned Courts of Appeal shall be held in such and as many places within such county and burgh respectively as such commissioners and magistrates respectively shall appoint; and the deliverances of such commissioners and magistrates respectively upon such appeals and complaints shall be final and conclusive and not subject to review."

(2) In its application to the city, section 7 (Time for lodging appeals against assessor's entries in valuation roll) of the Valuation of Lands (Scotland) Amendment Act, 1867, shall be read and have effect as if the words—

(a) " or complaints " and " or complaint " occurring therein were deleted;

(b) " third day of September " were substituted for the words " tenth day of September " occurring therein; and

(c) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein;

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament in its application to the city, read as follows:—

> " All appeals against any entry in the valuation roll made up in terms of the said recited Acts and of this Act either by the assessors appointed by the commissioners of supply of any county or by the magistrates of any burgh or by the Assessor of Railways and Canals shall, except as after provided, be lodged not later than the third day of September in each year, and every such appeal shall, except as aforesaid, be heard and determined not later than the fifteenth day of October in each year."

30. In its application to the city, section 9 (Persons entitled to appeal) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if—

(1) the words " not later than the third day of September lodge an appeal in writing with the assessor " were substituted for the words " six days at least before such appeal is heard intimate in writing to the assessor that he is to maintain such appeal " occurring therein; and

(2) the following provisos were added to that section :—" and provided further—

" (a) that where an appellant at the hearing of an appeal refers to or leads evidence in respect of premises, other than the premises referred to in such appeal, and has not at least two days before the date on which the appeal is heard furnished in writing to the assessor the address of such premises, the assessor may, at the close of the case for the appellant, make an application to Court for a continuation of such hearing, which application the Court shall grant if and so far as this can be done so as to admit of the appeal being heard and determined within the time prescribed by this Act for the holding of such Courts; and

" (b) that ten days at least before the date fixed for the hearing of the appeal the assessor shall by notice in writing intimate to the appellant such date which notice shall be accompanied by a copy of the immediately preceding provision of this section with regard to other premises proposed to be referred to at such hearing,"

so that that section shall, subject always to any alteration, modification, or amendment thereof made by any other Act of Parliament in its application to the city, read as follows :—

" All persons whose names shall have been entered by the assessors in the valuation roll of the county or burgh respectively, whether as proprietors or tenants or occupiers, shall be entitled to appeal to the said commissioners or magistrates, as the case may be, with reference to such entry: Provided always, that the appellant shall, not later than the third day of September, lodge an appeal in writing with the assessor and specify the amount of valuation which he alleges should be substituted for the amount stated by the assessor : and provided further—

" (a) that where an appellant at the hearing of an appeal refers to or leads evidence in respect of premises, other than the premises referred to in such appeal, and has not at least two days before the date on which the appeal is heard, furnished in writing to the assessor the address of such premises, the assessor may, at the close of the case for the appellant, make an application to the Court for a continuation of such hearing, which application the Court shall grant if and so far as this can be done so as to admit of the appeal being heard and determined within the time prescribed by this Act for the holding of such Courts; and

" (b) that ten days at least before the date fixed for the hearing of the appeal the assessor shall by notice in writing intimate to the appellant such date which notice shall be accompanied by a copy of the immediately preceding provision of this section with regard to other premises proposed to be referred to at such hearing.

31. Any factor, agent, or person acting for or in name or on behalf of a proprietor or tenant or occupier of lands and heritages who shall knowingly or wilfully present or cause to be presented to the assessor for the city under the Lands Valuation Acts a false statement of the yearly rent or value of any such lands and heritages within the city belonging to or occupied by the proprietor or tenant or occupier for or in name or on behalf of whom he acts, shall be liable to the penalty imposed by the said Acts upon proprietors, tenants, or occupiers of lands and heritages presenting or causing to be presented false statements to such assessor, and such penalty shall be recovered and applied in the way and manner provided by the said Acts.

32. Nothing in this Order contained shall extend or apply to the Assessor of Railways and Canals under the Lands Valuation Acts or to the valuation roll made up by him under those Acts.

LANARKSHIRE COUNTY COUNCIL ORDER CONFIRMATION ACT, 1925.

(15 & 16 Geo. V. c. 69.)

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1899, relating to Lanarkshire County Council.

[31st July, 1925.]

Whereas His Majesty's Secretary for Scotland has made the Provisional Order set forth in the Schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act, 1899, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same as follows:

1. The Provisional Order contained in the Schedule hereunto annexed shall be and the same is hereby confirmed.

2. This Act may be cited as the Lanarkshire County Council Order Confirmation Act, 1925.

SCHEDULE.

Lanarkshire County Council.

Provisional Order to . . . make further provision with regard to the valuation of lands within the county.

. . . .

And whereas it is expedient to amend the Lands Valuation (Scotland) Act, 1854, and the Valuation of Lands (Scotland)

Amendment Act, 1867, in their application to the county as provided in this Order, and to apply to the county the provisions mentioned in this Order of the Burgh Police (Scotland) Act, 1892, relating to assessment:

. . . .

PART I.

PRELIMINARY.

1. This Order may be cited as the Lanarkshire County Council Order, 1925.

This Order and the Water Acts may be cited together as the Lanarkshire (Middle Ward District) Water Acts, 1892 to 1925.

. . . .

PART IV.

VALUATION OF LANDS.

40. In its application to the county, section 5 (Notice to be given to persons whose property is valued) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words—

(1) " twentieth day of August " were substituted for the words " twenty-fifth day of August " occurring therein;

(2) " fifteenth day of June " were substituted for the words " fifteenth day of July " occurring therein; and

(3) " third day of September " were substituted for the words " eighth day of September " occurring therein.

41. In its application to the county, section 8 (Courts of Appeal) of the Lands Valuation (Scotland) Act, 1854, as amended by section 7 (1) of the Local Government (Scotland) Act, 1908, shall be read and have effect as if the words—

(1) " thirtieth but not earlier than the fifteenth day of September " were substituted for the words " nineteenth but not earlier than the tenth day of September " occurring therein; and

(2) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein.

42.—(1) In its application to the county, section 9 (Persons entitled to appeal) of the Lands Valuation (Scotland) Act, 1854, shall be read and have effect as if the words " not later than the third day of September in each year lodge an appeal in writing with the assessor " were substituted for the words " six days at least before such appeal is heard intimate in writing to the assessor that he is to maintain such appeal " occurring therein.

(2) In its application to the county, section 7 (Time for lodging appeals against assessor's entries in valuation roll) of the Valua-

tion of Lands (Scotland) Amendment Act, 1867, shall be read and take effect as if the words—

(i) " third day of September " were substituted for the words " tenth day of September " occurring therein; and

(ii) " fifteenth day of October " were substituted for the words " thirtieth day of September " occurring therein.

43. Nothing in this Part of this Order contained shall extend or apply to the Assessor of Railways and Canals under the Lands Valuation Acts or to the valuation roll made up by him under those Acts.

44. The provisions of the undermentioned sections of and Schedule to the Burgh Police (Scotland) Act, 1892, shall for the purpose of the assessment levy collection and recovery of the county consolidated rates and of any other rate or assessment which the county council are or may hereafter be authorised to assess, levy, collect, or recover within the county, and without prejudice to any existing powers of the county council for those purposes extend and apply to and within the county, *videlicet* :—

Section 346 (Assessment on premises occupied for part of a year);
Section 351 (Commissioners may alter and amend the roll);
Section 353 (Recovery of assessments);
Schedule VIII. :

Provided that in the application to the county of the said sections and Schedule there shall be substituted for the expressions " commissioners," " burgh," and " magistrates " occurring therein the expressions " county council," " county," and " two or more justices of the peace " respectively.

45. The county council, acting under the Lands Valuation (Scotland) Act, 1854, in addition to the ordinary valuation roll made up under the said Act in each year, may between the first day of January and the first day of March in each year, if the county council so resolve before the said first day of January, cause to be made up by the assessor under the said Act a supplementary valuation roll showing the yearly rent or value and other particulars as in the ordinary valuation roll of all lands and heritages that may have come into existence or occupancy within the county after the completion of the ordinary valuation roll last made up, and also including a column stating the respective dates when such lands and heritages came into existence or occupancy, and all statutory provisions applicable to the ordinary valuation roll shall, *mutatis mutandis*, be applicable to the said supplementary roll, and the county council shall be entitled to impose supplementary assessments and rates in respect of all lands and heritages in such supplementary roll proportionate to the respective periods between the dates so stated and the term of Whitsunday next following, for all purposes for which the county council may be entitled to assess or impose assessments and rates, which supplementary assessments and rates shall be made so far as possible in the same manner and under the same conditions and with the

same powers of recovery as are applicable to the corresponding assessments and rates for the whole year.

46. Any factor, agent, or person acting for or in name of a proprietor or tenant or occupier of lands and heritages who shall knowingly or wilfully present or cause to be presented to the assessor for the county under the Lands Valuation (Scotland) Act, 1854, and Acts amending the same, a false statement of the yearly rent or value of any such lands and heritages within the county belonging to or occupied by the proprietor or tenant or occupier for or in name of or on behalf of whom he acts, shall be liable to pay a penalty of the like amount as is imposed by the said Acts upon proprietors, tenants, or occupiers of lands and heritages presenting or causing to be presented false statements to such assessor, and such penalty shall be recoverable and applied in the manner provided by the said Acts.

. . . .

PART III.

FORMS.

No. 1.—RETURN OF PARTICULARS TO BE FILLED UP BY PROPRIETORS, TENANTS, OR OCCUPIERS.

VALUATION OF LANDS AND HERITAGES (SCOTLAND). BURGH OF . YEAR 19 -19 .

To ______________ *Agent or Factor for* ______________ *Property situated at* ______________

In pursuance of the powers conferred by the Act 17 & 18 Victoria, cap. 91, and Acts amending the same, you are hereby called upon, **within 14 days from the date hereof,** for a **written statement,** and in the form subjoined, of the Lands or Heritages specified above, within the Burgh of , of which you are Proprietor, Agent, or House Factor, **for the year from Whitsunday, 19 , to Whitsunday, 19 .**

The expression Lands and Heritages is, by the Valuation Acts, held to extend and to include "all lands, houses, shootings, and deer forests, fishings, woods, copse and underwood, from which revenue is actually derived, ferries, piers, harbours, quays, wharfs, docks, canals, railways, mines, minerals, quarries, coalworks, waterworks, limeworks, brickworks, ironworks, gasworks, factories, and all buildings and pertinents thereof."

All sums received in respect of Billposting Stations or Telephone Wayleaves must be entered in this return.

Attention is directed to the provisions of the House Letting and Rating (Scotland) Acts, 1911 and 1920 (as amended by Secs. 16 (1) and 18 (1) (*a*) of the Increase of Rent, &c., (Restrictions) Act, 1920, which apply in to houses having rentals of **£26 5s.** and under. The dwelling houses which come under the Acts do not include "any dwelling house occupied by the Owner thereof, or in which the Owner resides, or any dwelling house used as an inn or hotel, or any dwelling house let along with land for agricultural, pastoral, or horticultural purposes, or any dwelling house let in conjunction with a shop, workshop, stable, or byre."

The Acts provide that all Occupiers' Assessments be recoverable from the Owner, and you are called upon to state in respect of small dwellings either the gross amount or the net rent to be received by you from the Occupier.

Assessor of the Burgh.

Description, (House, Shop, &c.).	Situation (Street and No.).	PROPRIETOR.	TENANT OR OCCUPIER.		Feu-duty or Ground Annual.	YEARLY RENT OR VALUE.			
						UNDER HOUSE LETTING ACTS.		ALL OTHER SUBJECTS.	
		Christian Name, Surname, Designation, and Residence in full.	Full Christian Name and Surname.	Designation, Trade, or Calling.		With Taxes.	Without Taxes.	Rent.	Interest, Grassum, Goodwill, or any consideration other than rent.

Particulars only in regard to subjects above pointed out to be entered on this Schedule.

The above is a true return of the particulars required by this Schedule.

Signature, ______________

Address, ______________

Date, ______________

NOTE.—The attention of Agents and Factors is particularly directed to the furnishing of the Proprietor's residence in full.

DIRECTIONS.

1. The full yearly rent or value of each separate possession, with the corresponding feu-duty, must be stated without any deduction.
2. Property unlet and unoccupied must be entered as "Vacant," and the Annual Value entered in the Rental Column.
3. If the tenant is bound to erect buildings, or make alterations, or pay any landlord's burdens, the particulars thereof must be stated, and *vice versa*.
4. If any grassum or goodwill be paid, or there be any consideration other than the stipulated rent, the nature and value thereof must be stated.
5. Interest paid by a tenant, or money expended on improvements, must be stated.
6. The full Christian name, surname, and designation of proprietor, with his address, and the full Christian name, surname, and occupation or designation of each tenant or occupant must be given.

PENALTIES.

1. For failing to return within the stipulated period this Schedule containing the particulars required by the Lands Valuation Acts—a penalty not exceeding £20.
2. For presenting a false statement of Yearly Rent or Value or other particulars required by the Lands Valuation Acts—a penalty of £50.

No. 2.—NOTICE OF VALUATION.

VALUATION OF LANDS ACTS.—BURGH OF .—YEAR 19 -19 .

To the person designated on the back hereof.

TAKE NOTICE, that by virtue of the Act 17 & 18 Vict. cap. 91, and Acts amending the same, the following is a copy of an entry or entries in the Valuation Roll for the Burgh of , for the year from Whitsunday, 19 , to Whitsunday, 19 , wherein you are set forth either as Proprietor or Tenant or Occupier.

You can appeal to the Magistrates of the Burgh provided you shall, six days at least before such Appeal is to be heard (that is, on or before 4th September), intimate in writing to the Assessor that you are to maintain such Appeal, and specify the amount of valuation which you allege should be substituted for the amount stated on this notice; or you may obtain redress without the necessity of such appeal by satisfying the Assessor on or before the 8th day of September (as provided by the Statute) that you have well-founded ground of complaint.

The Burgh Valuation Committee will hold a Court for hearing Appeals on 10th September.

The Act provides that where the Assessor is merely to repeat an entry which occurred in the Valuation Roll of the immediately preceding year, it shall not be necessary to transmit any notice to the person or persons specified in such merely repeated entry.

NOTES.—In terms of section 50 (1) of the Local Government (Scotland) Act, 1929, Agricultural Lands and Heritages are subject to a deduction from Gross Annual Value for year 19 -19 of per cent. for both Owner and Occupier.

Distinguishing marks under Rating and Valuation (Apportionment) Act, 1928, section 9 (5), for Agricultural, Industrial and Freight Transport Lands and Heritages are shown in Column * with the letters A.I. and F.T. respectively.

Burgh Assessor.

DESCRIPTION.	SITUATION.	PROPRIETOR.	TENANT.	OCCUPIER AND INHABITANT OCCUPIER.	Annual Value of Dwelling-House. I.O. not rated.	Gross Annual Value, being Yearly Rent or Value.	Deduction from Gross Annual Value for ascertaining Net Annual Value.		Net Annual Value.	Markings under Apportionment Act, 1928. *	Rateable Value.
							Class No.	Percentage.	Amount.		

DETAILS OF ABOVE RATEABLE VALUATION.

SUBJECTS.	GROSS VALUATION.	RATING (SCOTLAND) ACT, 1926. DEDUCTIONS FROM GROSS VALUATION.			NET ANNUAL VALUE.	RATING AND VALUATION (APPORTIONMENT) ACT, 1928.					Rateable Value.
		Class.	Percentage.	Amount.		Markings.	LOCAL GOVERNMENT (SCOTLAND) ACT, 1929. PERCENTAGE ALLOWANCES UNDER THESE ACTS FOR THE YEAR 19 -19 .				
				=			× 10 %	=	Whereof $\frac{8}{15}$th =		
							— above 10 %	=	in full	£	£

No. 3.—FORM OF VALUATION ROLL.

VALUATION ROLL FOR THE BURGH OF FOR THE YEAR 19 -19 .

(Distinguishing Marks under Rating and Valuation (Apportionment) Act, 1928, Sec. 9 (5), for Agricultural, Industrial and Freight Transport Lands and Heritages are shown in Column **X** with the letters A.I. and F.T. respectively.)

											X			
	Description and Situation of Lands and Heritages.		PROPRIETOR.	TENANT.	OCCUPIER AND INHABITANT OCCUPIER.	I.O. not rated. Annual Value of Dwelling-House.	Gross Annual Value being Yearly Rent or Value.	Deductions from Gross Annual Value forascertaining Net Annual Values.		Net Annual Value.	Markings under Apportionment Act, 1928.	Rateable Value.	No	Remarks.
	Description.	Situation.						Class No.	Percentage					
1													1	
2													2	
3													3	
4													4	
5													5	
6													6	
7													7	
8													8	
9													9	
10													10	
11													11	

No. 4.—NOTICE OF APPEAL.

APPEAL

AGAINST AN ENTRY IN THE ROLL MADE UP UNDER THE POWERS OF THE VALUATION OF LANDS ACTS.

YEAR 19 -19 .

TO THE RIGHT HONOURABLE THE LORD PROVOST AND THE
MAGISTRATES OF THE CITY OF

The Assessor having served a notice upon me, intimating that the following entry has been made in the Valuation Roll :—

[Here insert the name of the Appellant and a copy of the Entry complained of.]

....

....

I do hereby Appeal against said Entry, and crave that—

[The Appellant will here state what Entry he considers should be substituted for the above.]

And that on the following grounds—

[The Appellant will here state the reasons why he considers the Entry should be altered.]

[*Signature of Appellant*] ....

[*Date*]................................... 19 .

All Appeals must be lodged with the Burgh Assessor not later than September, and the Appellant must specify the amount of Valuation which he alleges should be substituted for the amount stated by the Assessor.

No. 5.—CASE FOR THE OPINION OF THE JUDGES UNDER THE LANDS VALUATION ACTS.

At a Court of the Burgh Valuation Committee of the City and Royal Burgh of , held in on to dispose of appeals against valuations made by the Burgh Assessor for the year ending Whitsunday, , under the Valuation of Lands (Scotland) Acts, A B appealed against the following entry appearing in the Valuation Roll of the Burgh of for the year ending Whitsunday, .

Description and Situation of Subjects.		Proprietor.	Tenant.	Occupier.	Yearly Rent or Value.
House	10——	A B	C D	Same	£75

The appellant craved that the entry in name of yearly rent or value should be £50 instead of £75.

Evidence was led, and the shorthand writer's extended notes thereof are appended hereto and held to form part of the case.

The following facts were admitted or were held by the Committee to be proved or within the knowledge of the Committee :—

(1) ....

(2) .... &c.

The appellant maintained . . . (here follow the appellant's contentions).

The assessor contended . . . (here follow the assessor's contentions).

The Committee, having heard counsel for the parties and considered the whole circumstances, were of opinion :—

(1) ....

(2) ....

The Committee, acting in accordance with the opinion set forth, sustained (or reduced) the valuation and dismissed (or sustained) the appeal.

The appellant expressed his dissatisfaction with the determination of the Committee, and craved a case for the opinion of His Majesty's judges, which was granted, and is here stated accordingly.

The grounds of appeal submitted by the appellant and the Assessor's replies are as follows:—

GROUNDS OF APPEAL.

. . . .

ANSWERS FOR THE ASSESSOR.

. . . .

. . . .

(Signed)

Treasurer, Preses.

APPENDIX.

CERTIFIED COPY OF EVIDENCE.

PART IV.

CHRONOLOGICAL TABLES.

CHRONOLOGICAL TABLES.

1. ORDINARY VALUATION ROLL.

Jan. 1. March 1.	Dates within which the supplementary valuation roll is to be made up, if the Town Council so resolve before 1st January.
May.	General Meeting of County Council for appointing the County Valuation Committee.
July 15.	First day for sending notices and copies of entries to persons on the roll.
Aug. 15.	Assessor must make up the valuation roll by this date.
Aug. 25.	Last day for sending notices and copies of entries to those concerned.
Sept. 4.	Last day for intimation of appeals to Valuation Committee.
Sept. 8.	Last day on which assessor can alter the roll at his own hand.
Sept. 8.	Roll is transmitted to town or county clerk.
Sept. 10.	First day for holding Courts of Appeal.
Sept. 10.	Appeals to Valuation Committee must be lodged by this day.
Sept. 19.	Last day on which Courts of Appeal can be held.
Sept. 30.	Date by which all appeals must be disposed of.

2. Railway Assessor's Roll.

Nov. 1.	If required by county or town-clerk before this date, the railway assessor must assign a separate valuation to the portion of the undertakings in his roll which are within special districts, or within burghs, towns, and populous places.
Nov. 15.	Last day for intimation by water, gas, or other companies that they desire to be valued by the railway assessor.
March 15.	Last day on which the railway assessor can make up his roll.
March 15.	Last day on which notices and copies of entries can be sent to companies.
April 8.	Last day on which railway assessor can alter the roll at his own hand.
April 10.	Last day for lodging note of appeal to the Lord Ordinary on the Bills or the Sheriff.
May 15.	Deliverances in appeals must be given by this day.
May 15.	Authentication of the railway assessor's roll: as soon as may be thereafter a certified copy is transmitted to each county and burgh affected.

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